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DIACRITICAL MARKS ADOPTED IN THIS BOOK

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Dedicated to

PROFESSOR G. S. GHURYE

on the occasion of his 60th birthday
as a token of my deep regard and reverence for him
as a great sociologist and an inspiring teacher

PREFACE
TO THE FIRST EDITION

In my early study of Hindu Kinship I dealt with some aspects of Hindu marriage and family; but this was a casual examination of those institutions only, my main interest then being the analysis of Hindu Law in its social context. The present book is an attempt to study Hindu marriage and family in greater detail.

The many works that we have on Hindu institutions, social as well as political, are based mainly on the Brahmanic sacred literature and draw only slightly on Buddhist records and travellers' accounts. Such works are now regarded as lop-sided because any work on social institutions should aim, in the first instance, to be a comprehensive study of the patterns that we find in different parts and among different peoples of the country, unfolding the unity that underlies these patterns and the diversity that makes them unique. Secondly, in any study of Hindu institutions and of their development in the context of the Brahmanic ideals, the more interesting and instructive aspects are those which show the impact of political and economic ideologies and transformations on the institutions during the last hundred years and more. The present study attempts to trace the effect of this impact on marriage and family in different parts of the country.

A proper delineation of social relationships must be based upon classical literature and must take into account all available data concerning the change in patterns of relationships under the pressure of such varied influences as education, urbanization, ideological clashes, etc. A few of the theses prepared in the School of Economics and Sociology, University of Bombay, were available to me; but these represent only part of the work done in the country and are regional in their character.

I am conscious of the fact that in this book there should be a chapter on marriage rites. These rites differ in performance from caste to caste, and it is these *lokācāras*, and not the traditional rites, that are sociologically significant. The material collected being not comprehensive, the treatment is deferred.

When the manuscript was prepared the Hindu Code Bill was under discussion in the Legislature, and this is why the Bill has been discussed in this book. The Bill has subsequently given way to the Hindu Marriage and Divorce Bill, which in some respects modifies the provisions of the Hindu Code Bill. The Hindu Marriage and Divorce Bill is examined by the author in a separate brochure ; but its essential points of difference with the Hindu Code are given here in the Appendix.

One limitation to the present study is my unfamiliarity with the Arabic language. In the study of Hindu institutions I have been able to go back to the original Sanskrit sources, but in dealing with Muslim institutions I have had to content myself with the English translation of the Quran and the studies of the leading authorities, Muslim and non-Muslim, on Islam. I have likewise had to draw upon the monographs of anthropologists and others for the marriage and family patterns of tribal peoples. There is an urgent need for more first-hand information about tribal life under the stresses caused by rapid penetration of their lands and consequent introduction of new peoples and new cultures. Some studies prepared for M.A. and Ph.D. degrees in Sociology in the Department throw light on this process ; but I sincerely regret that I have had no opportunity so far for field-work myself.

I am aware therefore of the several respects in which this work is inadequate, but I hope it may nevertheless go some way in assisting understanding of the evolution of marital and familial patterns in this country. I should be failing in my duty if I were not to express here my sincere thanks to my son and to those of my students who have helped me in the work of analysing the data of my inquiry, to Dr M. S. A. Rao for assisting me in preparing the index and to the University of Bombay for publishing the book in the University Sociology Series. Finally, I would like to acknowledge my debt to all those by whose works I have greatly profited, but individual reference to each one of whom could not be made in the body of this book.

K. M. K.

PREFACE
TO THE SECOND EDITION

It is a matter of great pleasure to find that this book has succeeded in fulfilling a long-felt want for a comprehensive book on marriage and family in India, a fact borne out by the warm response accorded to the first edition. This second edition includes a number of observations originally made in my articles, 'The Changing Patterns of Hindu Marriage and Family', in the Indian Sociological Society's *Sociological Bulletin*, vols. III and IV. The addition of a section on Kota polyandry which was omitted from the earlier edition, makes the picture of this pattern complete.

The author realizes that some of the observations made in this book on the evidence of findings from a small sample are not valid for the large mass of the Indian people. A comprehensive investigation by a team of sociologists is necessary for this purpose. In the meantime, however, these small studies are useful in interpreting and forecasting trends. Though their validity may be limited, their usefulness cannot be gainsaid.

K. M. K.

PREFACE
TO THE THIRD EDITION

The present edition maintains the substance of the last edition but with certain modifications necessitated by research on the family during the last ten years. The chapter which concluded the previous edition is enlarged and developed into three chapters. The status of woman, and the family in the urban setting, are subjects which were dealt with somewhat cursorily in the previous edition; they are now treated exhaustively in two new chapters (11 and 12). In chapter 13 will be found an elaborate discussion of the various trends recently affecting the joint-family and the prospects for its future survival. The data on the matrilineal family (spread over two chapters in the last edition) has been brought together, enlarged and presented in a single chapter (14). The chapter on marriage as a sacrament (8) has been thoroughly revised, as has been the portion on the patriarchal family of the Nambudiriṣ in Malabar.

It is hoped that the book will continue to meet the needs of students of contemporary Indian society who seek a standard work on marriage and family in this country.

Department of Sociology
University of Bombay
1 February 1964

K. M. K.

ABBREVIATIONS

A.B.	Aitareya brāhmaṇa (Ānandāśrama Sanskrit Series, 1896; Trs. A. B. Keith: Harvard Oriental Series)
A.B.O.R.I.	*Annals of the Bhandarkar Oriental Research Institute*
A.G.S.	Āśvalāyana gṛhyasūtra (Ānandāśrama Sanskrit Series, 1923; Trs. H. Oldenberg: Sacred Books of the East Series)
A.V.	Atharvaveda saṁhitā (Ed. S. P. Pandit, 1895; Trs. W. D. Whitney and C. R. Lanman: Harvard Oriental Series)
Amar.	Amarakośa (Trivandrum Sanskrit Series, 1917)
Ant.Papers	*Anthropological Papers*
Ap.D.S.	Āpastamba dharmasūtra (Ed. G. Bühler and M. G. Shastri, 1932; Trs. G. Bühler: Sacred Books of the East Series)
Ap.G.S.	Āpastamba gṛhyasūtra (Ed. A. C. Sastri, 1928)
B.D.S.	Baudhāyana dharmasūtra (Government Oriental Library Series, 1907; Trs. G. Bühler: Sacred Books of the East Series)
Bhag.	Bhagavadgītā (Ānandāśrama Sanskrit Series, 1939; Trs. K. T. Telang: Sacred Books of the East Series)
Br.U.	Bṛhadāraṇyaka upaniṣad (Ānandāśrama Sanskrit Series, 1914)
Brh.	Bṛhaddevatā (Trs. A. H. Macdonell, 1904: Harvard Oriental Series)
Br.S.	Bṛhaspati smṛti (Trs. J. Jolly: Sacred Books of the East Series)
C.H.I.	*Cambridge History of India*
Ch.U.	Chāndogya upaniṣad (Ānandāśrama Sanskrit Series, 1910)
Dec.Col.Bul.	*Deccan College Bulletin*
Dh.K.	Dharmakośa (Ed. Laxmanshastri Joshi, 1936)
E.Br.	*Encyclopædia Britannica* (14th ed.)
E.R.E.	*Encyclopædia of Religion and Ethics*
E.Soc.Sc.	*Encyclopædia of Social Sciences*
G.D.S.	Gautama dharmasūtra (Ānandāśrama Sanskrit Series, 1931; Trs. G. Bühler: Sacred Books of the East Series)

G.G.S.	Gobhila gṛhyasūtra (Calcutta Sanskrit Series, 1936)
H.G.S.	Hiraṇyakeśī gṛhyasūtra (Ed. J. Kirste, 1889)
I.U.	Īśopaniṣad (Ānandāśrama Sanskrit Series, 1925)
Ind.Ant.	*Indian Antiquary*
J.A.S.B.	*Journal of the Asiatic Society of Bengal*
J.Ant.S.Bom.	*Journal of the Anthropological Society of Bombay*
J.B.B.R.A.S.	*Journal of the Bombay Branch of the Royal Asiatic Society*
J.B.O.R.S.	*Journal of the Bihar and Orissa Research Society*
J.H.Q.	*Journal of the Historical Quarterly*
J.I.H.	*Journal of Indian History*
J.R.A.I.	*Journal of the Royal Anthropological Institute*
J.R.A.S.	*Journal of the Royal Asiatic Society*
J.U.B.	*Journal of the University of Bombay*
K.G.S.	Kāṭhaka gṛhyasūtra (Ed. W. Caland, 1925)
K.S.	Kāmasūtra of Vātsyāyana (Ed. Gosvami Damodar Sastri, 1929; Kashi Sanskrit Series)
Kāt.	Kātyāyana smṛtisāroddhāra (Ed. and Trs. P.V. Kane, 1933)
Kau.	Kauṭilya arthaśāstra (Trivandrum Sanskrit Series, 1924; Trs. R. Shama Sastri)
Kau.B.	Kauṣitakī brāhmaṇa (Trs. A. B. Keith: Harvard Oriental Series)
Kau.U.	Kauṣitakī upaniṣad (Ed. and Trs. B. D. Basu: Sacred Books of the Hindus)
Kh.G.S.	Khādīra gṛhyasūtra (Government Oriental Library Series, 1913)
L.G.S.	Laugākṣi gṛhyasūtra (Kashmir Series of Texts and Studies, 1928)
M.	Manusaṁhitā (Nirṇayasāgar Press, 1933; Trs. G. Bühler: Sacred Books of the East Series)
M.G.S.	Mānava gṛhyasūtra (Ed. Knauer, 1897)
M.U.	Muṇḍakopaniṣad (Ānandāśrama Sanskrit Series, 1935)
Mbh.	Mahābhārata (Calcutta edition, 1834)
Mit.	Mitākṣarā (Nirṇayasāgar Press, 1926)
N.D.S.	Nārada dharmaśāstra (Ed. and Trs. J. Jolly, 1876)

Nir.	Nirukta (Ānandāśrama Sanskrit Series, 1921 ; Trs. L. Surup)
P.B.	Pañcaviṁśa brāhmaṇa (Ed. W. Caland, 1931)
P.G.S.	Pāraskara gṛhyasūtra (Vidyā vilasa Press, 1925)
P.P.	Padma purāṇa (Ānandāśrama Sanskrit Series, 1894)
P.S.	Parāśara dharmasaṁhitā (Bombay Oriental Sanskrit Series, 1893)
P.U.	Praśnopaniṣad (Ānandāśrama Sanskrit Series, 1911)
R.	Rāmāyaṇa (Gujarati Printing Press, 1913)
R.V.	Ṛgveda saṁhitā (Ed. M. Max Müller, 1874 ; Trs. R. T. H. Griffith)
S.B.	Śatapatha brāhmaṇa (Laxmi Venkatesvara Steam Press, 1940 ; Trs. J. Eggeling : Sacred Books of the East Series)
S.G.S.	Sāṅkhāyana gṛhyasūtra (Bibliotheca Indica Series, 1942)
S.Sr.S.	Sāṅkhāyana Śrautasūtra (Ed. A. Hillebrandt, 1888 ; Bibliotheca Indica Series)
Sm.Sam.	Smṛtīnāṁ samuccaya (Ānandāśrama Sanskrit Series, 1929)
Soc. & Soc.R.	*Sociology and Social Research*
Soc.Bul.	*Sociological Bulletin*
T.A.	Taittirīya araṇyaka (Trs. A. B. Keith, 1909)
T.B.	Taittirīya araṇyaka brāhmaṇa (Ānandāśrama Sanskrit Series, 1927)
T.S.	Taittirīya saṁhitā (Trs. A. B. Keith ; Harvard Oriental Series)
V.I.	Vedic Index. (A. A. Macdonell and A. B. Keith)
V.D.S.	Vasiṣṭha dharmasūtra (Ed. A. A. Fuhrer, 1916 ; Trs. G. Bühler : Sacred Books of the East Series)
V.S.	Vājasenīya saṁhitā (Ed. A. Weber, 1852)
Vai.S.	Vaikhānasa smārtasūtra (Trs. W. Caland, 1929)
Vi.P.	Viṣṇu purāṇa (Trs. H. H. Wilson, 1864)
Vi.D.S.	Viṣṇu dharmasaṁhitā (Trs. J. Jolly : Sacred Books of the East Series)
Yaj.	Yājñavalkya smṛti (Nirṇayasāgar Press, 1926)

INTRODUCTION

THE study of culture parallels is an important and an interesting part of sociology. Early British anthropologists explained this phenomenon on the theory of independent evolution of cultural traits in different parts of the world owing to the similarity of the working of the human mind when exposed to the same or similar stimuli. In doing so they did not completely ignore the fact that culture parallels were partly due to contacts. What they insisted on was the proof or at least the probability of contact. As evidence of this was meagre they stressed the independent origin of culture traits or trait-complexes in different parts of the world.

The German anthropologists, on the other hand, erred on the other side by overemphasizing the role of migrations and borrowings in producing cultural similarity. Ratzel, the pioneer of the school, appears to have felt that there were no limits to the possibility of transmission and borrowing of traits and trait-complexes of culture. Graebner, from his study of Melanesian, Australian and Polynesian cultures, evolved a theory of culture strata which, according to him, marked successive historical invasions or migrations of peoples, who differed from one another both culturally and racially.

These early diffusionists were so lost in theory that they failed to see some of the glaring limitations of cultural transmission. They did not consider distance as a barrier in the transference of cultural traits from one part of the world to the other. The limiting or modifying influence of physical environment on a trait or a trait-complex passing through different geographical and climatic regions in the course of its migration was equally ignored. Exotic traits are not accepted or assimilated *in toto* in any cultural fabric. The racial genius of the group, its past history and the intellectual quality of the people remodel an exotic trait in its own mould, and in the process of adjustment the trait derives its new meaning and significance. Diffusion thus supplies weft to the fundamental warp of the cultural fabric. The degree of assimilation or synthesis further depends upon the degree of contrast between the existing pattern and the alien complex.

The fact of transmission should always be substantiated by evidence of contact between one people and another. Even when this cannot be historically established, a case should be made out to show its probability on linguistic grounds, geographical contiguity or possible trends of migration.

Overemphasis on diffusion implies a further anomaly. Culture traits are taken to be units which easily differentiate themselves from the component whole and are equally easily integrated with another culture. Culture thus appears a fortuitous agglomerate of traits. In fact, culture is a composite whole, a homogeneity, in which every trait has a definite function, meaning and significance. Culture grows and is enriched by the assimilation of foreign traits, but this calls for such basic conditions as the compatibility of traits, preparedness of the community to receive them, the time factor, and so on.

This view of culture and cultural change needs particular emphasis here for two reasons. Very often the cultural traits or trait-complexes of Brahmanic culture are interpreted not only by indologists but even by anthropologists either as the result of borrowings from Dravidian culture or as the result of contacts with two cultures, Dravidian and Aryan. This erroneous line of thinking needs reorientation, based first on the correct comprehension of cultural process and second on the documentary evidence and historical perspective of Brahmanic culture. This is one reason, the second being the functional.

The identity of form of a trait is not so important as the diversity of function which the trait is known to play in the cultural whole. It is the ideas which are associated with it and the group values which define its role and significance in the life of the community that are really important in the study of culture. The point may be illustrated. Polygyny is a widely distributed trait in India but it has different meanings in different contexts. Polygyny among the Hindus was due to group ideology and the system of caste with its consequent social hierarchy. Among the Nambudiris of South India it was due to the patriarchal joint-family organization. Islam sanctioned it as a relic of pre-Islamic Arabic culture and some of the tribalists in India practise it for co-operation in labour and what

Veblen calls 'conspicuous consumption'. As regards its social consequences in different cultures, it led among the Hindus to female infanticide, supersession of wife, economic exploitation of the wife's parents, and mental torture and economic insecurity for the wife. Among the Nambudiris it created the problem of spinsterhood. Among the Muslims it was utilized to assert the dominance of the male over the female and tilt the law of divorce in favour of man to the greater disadvantage of woman. Similarly, polyandry among the Nairs, the Khasas, the Todas, the Iravans and the Coorgs has different associated cultural traits and different significances. In some cases it has the matrilineal joint-family and in others the patrilineal or even patriarchal family as its associated trait. Among the Khasas, the Nairs and the Todas it seems to have been preceded by sexual laxity; but no such antecedent condition can be presumed in the case of the Iravans or of the Coorgs. While polyandry among the Khasas was perpetuated by their physical environment as well as by the biological and social factors of Khasa life, among the other groups it does not reflect the impact of physical environment or of the biological factor. It must be clear then that a trait or a trait-complex has its significance in the cultural context. The study of marriage or family in India therefore involves the study of different patterns in their physical and social background.

Rivers found in his study of Melanesian society that 'the present condition of Melanesian society has come into being through the blending of an aboriginal population with various peoples from without'. Hence, to understand properly the present-day customs and institutions of Melanesia it is necessary to trace them to one or other of the diverse cultures that have gone into the making of the Melanesian culture. This approach led Rivers to stress the importance of ethnological analysis in the study of social institutions. He also emphasized the importance of kinship terminology and the kinship system in any culture study.

Rivers' approach is all the more important to our study of Indian culture because India is historically known to be the home of varied cultures and ethnic stocks. Sir Herbert Risley divided the peoples of India into seven types. His classification became the basis of later discussion, and various ethnic elements have been traced in the Indian population. Although there are still considerable differences of opinion in regard to the race elements in India, we may broadly divide the population, following G. S. Ghurye in the main, into five groups which stand clearly marked out both in their cultural items and physical characteristics. They are the Indo-Aryans, the Dravidians, the pre-Dravidians, the Mundas and the Mongoloids. Among the Indo-Aryans we have two further cultural patterns, one of the midlandic and the other of the outlandic peoples. A good deal of cultural integration and racial admixture has taken place between these groups, which have been living together for centuries. Besides these known groups a large number of foreign peoples—the Greeks, the Bactrians, the Kusans, the Sakas, the Hunas, the Abhiras, the Gurjaras—, the Yavanas and the Mlecchas of Sanskrit literature, many of whom were Hinduized, have contributed to and have enriched Hindu culture. With this historical background of Hindu culture it would be rash to speak of racial types in Indian population, yet it would be equally rash to ignore the various ethnic groups in delineating the cultural patterns of the country. Ethnological analysis of culture is the basic need of Indian sociology. Ethnological analysis has been criticized by Malinowski and his school but, to our mind at least, the quarrel between the two schools has not much of substance in it. Ethnological analysis, as will be shown in its application in the sequel, is both historical and functional in its objective and content.

It is now accepted that even pre-literate societies do produce individuals of superior ability who, through the influence they wield in the community, bring about changes, and at times important changes, in the *mores* of the community. Men of genius do not spring up often, however, and occasions for change are few. Again, these people, living in isolation, fail to enrich their culture by the incorporation of exotic traits. The potentialities of cultural development being limited in these isolated communities, the cultural change is not very striking and does not fundamentally affect the social organization to which the community adheres with tenacity.

Gooroodass Banerjee writes: 'The highest possible ambition of every Hindu ruler was to govern according to primæval law; and the most perfect type of administrative ability which the imagination of the Hindu poet could conceive, was the power to lead the subjects, without the least deviation, in the beaten track marked out by Manu.' This is the natural corollary to the Hindu concept of *dharma*. The notion of positive law as elaborately developed by Bentham and Austin was foreign to the Hindu law-givers who looked to the Vedas as the primordial sources of *dharma*. Gautama writes (I 1,2): 'The Veda is the source of *dharma*; and the tradition and practice of those who follow it.' So does Āpastamba (1 1,2): 'The authority (for the *dharmas*) is the consensus of those that know *dharma* and the Vedas.' It is hence that Hindu *dharma* is called *sanātana*, immutable. The extent to which Hindu culture is static is an important question and should be raised by any student of Hindu culture envisaging the possibility of social change and indicating the direction of this change in Hindu society.

As the Hindu Law had always been recognized as deriving its sanction from the Vedas, the Hindu legislators justified the rules and restrictions they preached either by quoting a Vedic text supporting them or by interpreting a Vedic text in a way that would substantiate their opinions. In spite of this, Hindu *dharma* has never been static but dynamic. From very early times the Vedas have been studied in different *śākhās*. Every *śākhā* had its own traditional interpretation of the Vedic texts. It is quite possible that this interpretation was as much influenced by the genius of the head of the *śākhā* as it was coloured by the practices prevalent in the locality. In course of time the *śākhās* were further divided into *caranas*. The traditions of the *śākhās* and *caraṇas* came to be embodied in the Sūtra works assigned to these *śākhās* and the latter regulated the daily life of the adherents to the *śākhās*. This is why Āpastamba regards the Vedas and the agreements of the learned men as the sources of *dharma*. The divergences in the traditions of the *śākhās* could not be questioned as they were said to be based on the Vedic texts supposed to be available to the *śākhās* then, though they are not available now.

The Sūtra-writers tried to modify *dharma* according to their own lights by interpreting inconvenient Vedic injunctions as *arthavādas*, eulogies, and not *vidhi*, norms. They supported their innovations either in the name of the Vedic texts supposed to be available to them or as the opinion of their learned predecessors. Some concessions were also made for adverse circumstances, for which special duties were laid down. Any reader of the Dharmasūtras can see the process of the development of Hindu *dharma*. In the Manusaṁhitā, conflicting opinions appear side by side without any attempt at explanation. The Manusaṁhitā is, however, an important work, not only because it is supposed to fix the Hindu norms, but because it very picturesquely unfolds the whole process of evolution of the Brahmanic cultural pattern.

Endogamous restrictions made their first definite appearance in this period: exogamous restrictions of marriage were, at the same time, considerably modified. Pre-puberty marriage was first advocated and a new code of sexual ethics, insisting on virginity before and fidelity during and after wedlock on the part of woman, and granting privileges of polygyny and supersession to man, was devised. These striking changes in Hindu life and *dharma* were recommended, and in course of time they became the *mores* of the community. It is significant that Manu (II 6) enlarges upon the text of Gautama by looking upon self-satisfaction and the practice of virtuous people as additional sources of *dharma*.

The Brahmanic culture pattern which was evolved in broad outlines in the Manusaṁhitā continued to undergo important changes at the hands of Smṛti-writers and the commentators on the Smṛtis. Yājñavalkya introduced the wife and daughter as heirs to family property, declared a son's right by the very fact of his birth to the property held by his grandfather, and enlarged the content of woman's property and her control over it. In consonance with these changes in favour of woman, he introduced the three immediate ancestors of the other as the recipients of *piṇḍas* at the *śrāddha*. Kātyāyana further enlarged the scope of *strīdhana*, woman's property, and recognized woman as entitled to her husband's share in the joint-family property after his death.

Vijñāneśvara introduced the daughter's son as an heir in preference to such a near agnatic relation as the father or the brother. And Jīmūtavāhana brought in the sister's son, the father's sister's son and the father's father's sister's son as heirs in preference to some of the nearer collaterals. The claims of agnatic relatives beyond the fourth generation came to be ignored in favour of relatives through the mother. And all this was done when joint-family as the basic pattern of Hindu culture was very strongly insisted on. Many more changes of a similar nature may be enumerated, but these should suffice to illustrate how the Brahmanic pattern of culture was dynamic until the end of the eleventh century, because these were changes affecting the fundamentals of Hindu family organization. The source and scope of Hindu *dharma* was thus continually being enlarged by Hindu legislators to bring it into conformity with the new needs, in terms of time and space. Yājñavalkya writes (1 7): 'The Vedas, the Smṛtis, the usages of good men, what is agreeable to oneself and desire born of due deliberation—this is traditionally recognized as the source of *dharma*.' The force of custom in moulding the *mores* can be comprehended from a dictum in the Mahābhārata, *mahājano yena gataḥ sa panthāḥ* (that alone is the *dharma* which is chalked out by people), and the precept of Yājñavalkya, 'Whatever may be pure yet unapproved of by people should neither be done nor practised'. Some of the innovations of the Smṛti-writers were rationalized by treating them as *deśadharma, jātidharma, āpaddharma,* etc. Thus, under the guise of interpreting the ancient texts, Hindu *dharma* was socially conditioned.

The period between Puṣyamitra of the Sunga dynasty and Harṣavardhana of Kanauj—185 B.C. to A.D. 648—may be aptly called the period of Vedic renaissance. On the cultural plane Patañjali (150 B.C.) heralds this period and Saṅkarācārya (A.D. 800) terminates it. The Buddhist culture that had entered a defensive phase with Kaniska (A.D. 120) on the political plane and Nāgārjuna and Aśvaghosa on the cultural plane began to show signs of decadence with the rise of the Guptas in A.D. 320. Though in the pre-Gupta era the whole of North

India was under the rule of one or other of the foreign tribes which had domiciled there, Hindu civilization was enriched in art and thought by the contributions of those tribes that were Hinduized. That Manu accords them a place in the *varṇa* scheme of the Hindus testifies to this process of assimilation of culture and ethnic groups into Hindu society. With the coming of the Guptas, the creative impulse of the people found full expression. Sanskrit was once again restored to its deservedly high place as the medium of the *élite* and even of the people, and the Sanskrit classics were the natural flowerings of the period. Epics were reduced to their present forms and the Bhagavadgītā is the embodiment of the synthesis of the various religious and philosophical viewpoints which the catholicity of the period fostered and encouraged. Sculptures, fresco-paintings, dancing and music reached their culmination. The immortal statues—Buddha of Sāranātha, Prajñāparāmita, Viṣṇu-Sūrya, Nara-Nārāyaṇa—and the fresco-painting of Ajanta are proud achievements of this period. Āryabhaṭṭa, Varāhamihira, and Brahmagupta in Mathematics and Astronomy and Vāgabhaṭṭa in Medicine enlarged upon the contributions of their great predecessors. Śaṅkarācārya with his unique Bhāṣya on the Vedanta propounded his monistic philosophy and, by organizing his *maṭhas* in four quarters—Sṛṇgerī, Dvārkā, Jagannāthpurī and Badarīnātha—, unfurled the banner of Hinduism, giving a death blow to the decadent Buddhist culture.

The Gupta period was marked by religious toleration of all faiths, creeds and cults. The pro-Brahmanic kings not only encouraged Buddhism but were liberal even to the Kāpālika and Pāśupata sects of Śaivism and the Sākta and the Durgā cults. This catholicity, noble in itself, resulted in the growth of sectarianism within Hinduism, repercussions of which later proved fatal to Hindu culture. Some of the sects and cults that emerged in this period sanctioned indulgences in wine, meat and women as sacred. Buddhist culture had by now become decadent by having at its helm libertine Bhikkhus and by the transformation of *mahāyāna* into *mantrayāna* (A.D. 400) and later into *vajrayāna* (A.D. 800) which, in line with Tantricism, extolled sex-indulgence.

Sex-morbidity, which seems evident in some of the frank descriptions in Vātsyāyana's scientific work on sex, found expression in the literary works not only of Amarūka and Murāri but even of such a sober writer as Bhavabhūti, and culminated in the erotic sculpture in the temples at Khajurāho and Konārak for which the Tantric sculptors were largely responsible. The distorted sense of values expressed so unmistakably in art and literature was fondled by libertine practices in the name of religion. Śaṅkarācārya's teaching of asceticism was the first warning against this unhealthy development.

The Islamic conquest, which began with the conquest of Sindh by Muhammad bin Kasim in A.D. 712 and the impact of which became serious with the installation of Muslim power in India by Shahbuddin Ghori in A.D. 1193, assumed a threatening and overpowering force to Hindu culture under Allaudin Khilji in the early fourteenth century, when Islam began to unfold and expand in India. The sectarianism which was well started on its career at the advent of Muslim power in India had divided the Hindus into sectarian groups, none of which had the strength to unite. The growing rigidity of the caste-groups tended to accentuate exclusiveness, under the spell of which the Hindus failed to evaluate the danger of Islam. The growing popularity of vernaculars and consequent decadence of Sanskrit as the medium of expression and cementing national force were other weaknesses of Hindu society of this period, which suffered from fissiparous tendencies in political, religious and social life. In a word, Hindu reactions to the Islamic conquest were retreat, despair and defeatism. The despairing spirit of the Hindus on the one hand sought consolation in the philosophy which taught the nothingness of life and, on the other, revelled in the erotic devotional songs of the lives of Kṛṣṇa and Rādhā or Kṛṣṇa and the gopis. This defeatist attitude, while it helped them to bear the cruelty of Muslim rule with equanimity, recoiled by entrenching their social system in hide-bound restrictions. The forced Hindu converts to Islam were not taken back into Hinduism. On the other hand the Brahmanic attitude towards the lower castes forced the latter to embrace Islam. These new converts to Islam proved to be more ferocious and more tyrannous to Hindus and Hindu culture than were the Muslims themselves. The defeat on the political front had a less adverse effect on Hindu culture than this reaction of the Hindus to the Islamic conquest.

The creative urge of the Gupta period was slowly dying out: yet the period that followed was marked by the personalities of Śaṅkarācārya, Vijñāneśvara and Jñāneśvara, and also by great achievements in poetics, history, jurisprudence and temple architecture. Hinduism was a growing tradition even in its social implication, though the unhealthy development of sex-morbidity and sectarianism had begun to have impact on Hindu institutions. Muslim conquests enhanced this reactionary attitude with the result that Hindu culture, which had with Śaṅkarācārya already entered on a defensive phase, became more and more conservative.

From the thirteenth century onward there appeared all over India a number of saints who tried to preach equality of all, irrespective of caste or creed. These saints, who were devout worshippers of a personal God, Rāma or Pāṇḍuraṅga, had an immense appeal for the masses. As these saints came from different castes, including Śūdras and at times even untouchables, distinctions of caste seemed to recede into the background for the time being. These personages, respected both for their precepts and examples, did not, as a matter of fact, bring about a great revolution in Hindu society, and this for two reasons. The equality preached by them had a philosophical basis which did not appeal to the people as much as the religious life which the saints lived and the devotional songs which they composed and sang. Secondly, the saints not only accepted the social order which recognized social injustice in terms of caste and sex, but being devout Hindus submitted themselves to persecution in the name of that social order. Again, they were so absorbed with the goal of attaining oneness with their personal God that they were simply unconcerned with life on earth. They did not bother about the rightness or wrongness of the social order in which they were brought up and which they were taught to accept as sacrosanct. It was not strange, therefore, that they should look upon woman as a temptation and hindrance in their march towards higher development, even though women were promised salvation through the religious life they preached.

It is only with Raja Ram Mohan Roy that we find a movement in favour of social change organized on the ideal of social justice. The distinctions of caste and sex came to be objected to as irrational. The social ideal, which allowed a man to have more than one wife at a time while a woman was expected to be devoted to her husband and which disallowed a widow to remarry while allowing a man to marry immediately after the death of his first wife, was questioned as antagonistic to the ideals of liberalism and democracy. Attention was diverted to the inequalities of sex because of the staggering problem that Kulinism had become in Bengal at that time. According to the survey of males married more than once, which Vidyasagar is said to have compiled, a man of 50 was found to have married 80 times, a youth of 18, 16 times and a man of 55, 107 times. It was estimated that, on an average, a Kulin had 5 wives. The age of the wife at the time of marriage was very low because every man took the earliest opportunity of finding a suitable man from his caste to be his son-in-law. And early marriage created the problem of child-widows.

Although the reformers availed themselves of legislation to bring about social reform, they knew well that the people should be convinced of the justness of the proposed changes. Hindu people were less likely to be convinced of the unfairness of their social ideals on rational or democratic grounds than if their institutions were shown to be contrary to Shastric precepts. Accordingly, the reformers wrote essays to show that the Hindu Shastras supported their viewpoint. Conferences of pandits were called to discuss the issue of reform and give the opinion of the Shastras thereon. One such conference was called by Robertson in 1823 to discuss whether the practice of *sati* was Shastric, and Nīlakaṇṭha Shastri and Viṭṭhalpant Upadhye succeeded in proving that it was not so. A conference was similarly called to discuss the question of widow remarriage. Ranade and Viṣṇu Shastri unfortunately failed to carry the conference with them in support of widow-remarriage. This particular approach to social reform shows, on the one hand, the influence of the old traditions on the people and, on the other, the limitation of legislation as an agency of social reform. It also explains why

Dayānanda Sarasvati started his reform movement by harking back to the glorious days of the Vedic era, and why Gandhiji, even in the third and the fourth decades of the twentieth century, had to show either that the changes proposed by him were based on an intelligent interpretation of Hindu *dharma* or that they had been dictated to him by his inner voice which was an infallible guide to him in matters of *dharma*.

The revolution in the economic life of this country has not revolutionized the social ideology of its peoples. Consequently social change has so far been slow. But that is no reason why one should not hope for a rapid stride in the direction of social justice. Macaulay wrote: 'The highest intellects, like the tops of mountains, are the first to catch and to reflect the dawn. They are bright while the level below is still dark. But soon the light, which at first illuminated only the loftiest eminences, descends on the plain and penetrates to the deepest valley.' We have ample evidence in the pages that follow that the light which touched Raja Ram Mohan Roy and his friends has by now penetrated to a wider section of the Hindu population. The enlightened opinion of the people, the constitutional pledge of social justice and the sincerity and zeal of the Government in making our infant democracy worthy of its name are hopeful and encouraging signs of the impending revolution in the social ideals and institutions of the peoples of India.

September 1954 K. M. KAPADIA

CHRONOLOGY OF SANSKRIT TEXTS AND AUTHORS

	Dates according to Dr P. V. Kane	Other Authorities
I. *VEDIC PERIOD*	4000-1000 B.C.	2000-750 B.C. (Winternitz) ; 1200-350 B.C. (Keith) ; 1300-800 B.C. (Macdonell)
Brāhmaṇas		800 B.C. (Keith) ; 1200-1500 B.C. ; 800 B.C. (Belvalkar)
Gṛhyasūtras		700-300 B.C. (Hopkins)
Yāskācārya	800-500 B.C.	Not later than 700 B.C. (Belvalkar, Surup)
Pāṇini		500 B.C. (Winternitz)
Bṛhaddevatā	600-300 B.C.	4th century B.C. (Keith and Macdonell)
II. *SUTRA and EPIC PERIOD*		
Dharmasūtras	600-300 B.C.	300-100 B.C. (Hopkins)
Kauṭilya	300 B.C. - A.D. 100	A.D. 300-400 (Winternitz)
Manusaṁhitā	200 B.C. - A.D. 100	
Mahābhārata	500 B.C. - A.D. 200	400 B.C.-A.D. 300 or 400 (Winternitz and Hopkins) ; A.D. 300-500 (Bühler) ; first three or four centuries of our era (S. Levi) ; by 200 B.C. most of the Epic was completed (Keith, Hopkins)
Bhagavadgītā		
Rāmāyaṇa	500-200 B.C.	800-500 B.C. (Jacobi) ; 300 B.C.-A.D. 200 (Winternitz) ; 400 B.C., (Keith)

III. *AGE of LEGISLATORS and PURANAS*		
Yājñavalkya	A.D. 100-300	4th century A.D. (Hopkins, Keith); later than 4th century A.D. (Jolly); 3rd century A.D. (Jacobi)
Viṣṇu	A.D. 100-300	Not earlier than 3rd century A.D. (Jolly); 3rd century A.D. (Hopkins); Later than Yājñavalkya (Meyer)
Nārada	A.D. 100-400	5th century A.D. (Hopkins, Keith); A.D. 400-500 (Jolly)
Vyāsa	A.D. 100-500	
Vaikhānasa	A.D. 500	
Bṛhaspati	A.D. 300-500	6th century A.D. (Keith); 6th or 7th century A.D. (Hopkins, Jolly)
Purāṇas	A.D. 300-500	A.D. 100-500; more probably in the 3rd century A.D.
Kātyāyana	A.D. 400-600	Earlier than Bṛhaspati (Keith)
Varāhamihira	A.D. 500-550	
Kumārilabhaṭṭa	A.D. 650-700	A.D. 700 (Winternitz); 8th century A.D. (Jolly)
Parāśara and other minor Smṛtis	A.D. 600-900	
IV. *AGE of COMMENTATORS and DIGEST WRITERS*		
Śaṅkarācārya	A.D. 788-820	
Viśvarūpa	A.D. 800-850	
Medhātithi	A.D. 825-900	A.D. 825-900 (Dh.K.); 9th century A.D. (Jolly)
Dhāreśvara	A.D. 1000-1055	
Vijñāneśvara	A.D. 1070-1100	A.D. 1075-1125 (Jolly)
Laxmīdhara	A.D. 1100-1130	
Jīmūtavāhana	A.D. 1100-1150	A.D. 1090-1130 (Dh.K.); 15th century A.D. (Jolly)
Mādhavācārya	A.D. 1300-1380	A.D. 1330-1385 (Dh.K.)
Sāyanācārya	A.D. 1300-1380	A.D. 1330-1385 (Dh.K.)
Nanda Pandit	A.D. 1590-1630	A.D. 1598-1625 (Jolly)

1

THE HINDU VIEW OF LIFE

What is regarded by man as the first principle of things or the ultimate basis of the universe is generally conceived to be the end toward which his strivings in life are directed. In order to understand, therefore, the Hindu aspirations of life, the Hindu attempt to understand the universe and the principle that sustains it must be analysed. The Rigvedic hymns reflect a phase of religion when nature in its varied aspects is looked to for help and guidance. Storm, rain, thunder, light and other varied phenomena of nature are regarded as manifestations or expressions of different deities, each controlling a particular phenomenon, and hence Parjanya as a thunder-god or Mitra or Viṣṇu as a god of light is propitiated for his beneficence. The characteristic feature of this Ṛigvedic religion is that the deity supposed to preside over a particular aspect of nature was regarded at the time of its invocation as the greatest and highest. This is quite natural. The needs of life of the Rigvedic people in different seasons and at different hours of the day differed. At one moment the need for light made the sages look to Mitra or Savitṛ with all devotion; the next moment the necessity for rain directed their attention and prayers to the god Parjanya. While at dawn Mitra was solicited to wake the people and to urge them to activity, in the evening it was Pūṣan who was entreated to help them in finding their cattle that had strayed away. This practice of extolling one god above all others, even for a temporary period, is significant inasmuch as it tends to give rise, in course of time, to a thought which culminates in the conception of one supreme Lord of all beings. And we do find in the later phase of Rigvedic thought the sages struggling to perceive the reality which controlled all beings, inanimate objects and the universe.

> 'In the beginning rose Hiraṇyagarbha,
> Born as the only lord of all existence.
> This earth he settled firm and heaven established:
> What god shall we adore with our oblations?
>
> . . . .
>
> Alone that one breathed calmly, self-supported,
> Other than It was none, nor aught above It.'[1]

Although we cannot assert that the Rigvedic sages succeeded in comprehending this one reality, we do discern clearly the conception of one who is the creator, the ruler and the preserver of the universe evolving in the Ṛgveda. With this assertion of the unity of the gods and of the world they proclaimed: 'There is one, they call by many names' (I 164, 46).

The Vedic seers moulded their gods in their own moulds. They lived the life men lived. Hence their ambition in life was a full life here on earth to be followed by an equally happy life in the other world in the company of gods. 'May we complete the god-ordained period of life.' 'May we live a hundred years' (R.V. I 89, 8; VII 66, 16). And this was natural, as the life offered gold, cattle, sons and grandsons in plenty. With death, whether the flames devoured the body or the earth covered it, the spirit, leaving all imperfections behind it, trod the path which was searched for and found first by Yama for all his descendants and which the fathers accordingly trod; and moved towards a new life, a life that was all the more joyful. Conducted by Savitṛ and protected round about by Agni from what was terrible, it crossed the stream and reached the world of 'eternal light' where Yama sat under a tree of beautiful foliage, engaged in an everlasting bout in the company of the gods. 'Wafted upwards by the Maruts, fanned by soft breezes, cooled by showers, he recovers his ancient body in a complete form, and glorified meets with the fathers who revel with Yama.'[2] The spirit had returned home; had joined the company of countless ancient fathers. The life of 'bliss, delight, joy and happiness' was opened to it there.[3]

'The thoughts of the poets of the Ṛgveda, intent on the happiness of this earth, appear to have rarely dwelt on the joys of the next life, still less on its possible punishments.'[4] With exuberance of joy in life here, their imagination could not envisage anything but a happy continuance of life as a companion of the immortals in eternal light. This was the lot of the pious, free from sin. The evil-doer was denied this heavenly life; perhaps he was supposed to sink in endless darkness 'from which none shall ever come up again'.[5]

As we pass on from the Ṛgveda to the Atharvaveda and the Brāhmaṇas we find the concept of unity taking a concrete shape in the person of Puruṣa, Skambha or Prajāpati. In the Brāhmanas, Prajāpati is said to be the thirty-fourth above the thirty-three gods. He is said to give prowess to Indra. The Puruṣa, the supreme man in the Ṛgveda, pervades the world with a fourth part of Himself. All beings come out of Him and He pervades things, animate as well as inanimate. Thus the conception of one great Being, from whom the universe is said to have emanated and who is sometimes described as one with the universe and transcendent, gradually prepares the way for the later polytheism of the Upaniṣads.

While this principle of unity was centred in the person of Prajāpati, another principle, namely the sacrifice, was *pari passu* apportioning to itself an equal place, and we also find 'the identification of the sacrifice with Prajāpati, who is the creator *par excellence*'. At the same time, the sacrificial ritual was gathering round it a mass of elaborate detail with the result that it came to be looked upon as a sort of machine in which every part must tally with the other for its successful operation. The slightest discrepancy in the performance of even a minute detail was believed to render the sacrifice devoid of its efficacy. 'The Asuras put the bricks in the fire altar with the mark below, in the preliminary rites they shave first the hair, then the beard, then the armpits; they offer a white victim born of a black mother, and these errors are fatal.'[6] Evidently the complexity of the ritual and the insistence on the proper performance of even a trivial detail were the logical outcome of a process that tended to make sacrifice a special function of a group in the community. A section of the community which could afford to interest itself in mastering all the intricacies and details was capable of making the sacrifice fruitful to the sacrificer. Emergence of a priestly class was thus made inevitable. The performance of sacrifice in all its varied and complicated details had a sort of magical potency which could give its result only when it was properly handled by an appropriate person. Rigvedic nature worship, with its naïve faith and emotional appeal, when associated with the magical beliefs and charms which predominated Atharvavedic thought, culminated in an institution in which the propitiation of a god through sacrifice was replaced by the magical potency of the sacrifice itself. Consistent with this view of sacrifice, gods were said to owe their power, glory and even immortality to sacrifice. The gods who found themselves at a disadvantage in their struggle with the Asuras approached Prajāpati for help, and he invented rite after rite, the performance of which brought success to them. Even within the divine family 'the value of knowledge of the sacrifice is the most important thing of all, and the Ādityas are superior by far in this and reach heaven before (their rivals) Āṅgirases, who have to serve them in place of being served by them'. Even Prajāpati 'as the first to sacrifice, is the first to win the reward of sacrifice and to ascend to the sun'. 'Śiśu Āṅgirasa was entitled to call the Fathers "my children" owing to this knowledge of the ritual, as in the Atharvaveda the seer may by insight win the position of the father of his father.' 'Even truth is nothing but exactness in the rites and the formulæ of the sacrifice, and the decisive thing in their [gods'] *tapas* is their knowledge of the correct mode of offering.'[7] If the gods derived their prowess and success by their knowledge of the correct mode of performing a rite, it was natural to conclude that there was no power which could arrest or delay the fruition of the desired object once the sacrifice had been performed correctly in its minutest details. Naturally the sacrifice was regarded as almost the only *kriyā* or *karma*. The change in the role of the god Varuna from the guardian of Rta, the moral order, that he was in the Ṛgveda, to a deity in the Brāhmaṇas 'who is constantly ready to punish inaccuracies in the ritual' and by whom 'the errors in the offering are at once seized hold of'[8] clearly shows the change from the Rigvedic Ṛta as the moral power behind the universe to the sacrifice as the all-important power sustaining the universe.

'This faith in the sacrifice is encouraged by the long accounts given of the men who flourished by the use, and by the still longer lists of things, which by the sacrifice can be achieved automatically for men by the priests.' The sacrifice not only conferred material benefits on this earth but even had an important role in the determination of the nature of retribution hereafter. Bhṛgu, the son of Varuṇa, was made unconscious and his spirit was sent to see the world to come. He saw, according to the Jaiminīya Brāhmaṇa (1 42-4), six scenes: (i) a man was devouring another man whom he had cut up into pieces ; (ii) a man was eating another, while the latter uttered cries of misery ; (iii) a man was eating another, who kept complete silence ; (iv) two women were guarding a treasure ; (v) two rivers, one of blood guarded by a naked man armed with a mace, and the other of butter guarded by men of gold, who with cups of gold drew from it what they desired ; (vi) five rivers covered with blue and white lotuses, 'with waves of honey, where the dance, the songs, and the lute resounded, where Apsarases disported themselves, and sweet fragrance was wafted.' He was then told the significance of these scenes. The first scene exhibited the fate of those men who, without offering the *Agnihotra* and without true knowledge, cut wood in the world ; the trees avenged themselves in the other world. The next two scenes represented the animals and the herbs avenging themselves on the persons, who, without proper ritual knowledge, had killed and eaten them. The two women represented faith and the lack of faith. In the fifth scene the river of blood was the blood of a Brahmin and the naked man the sacrifice. The river of butter was formed from the waters used at the offering. The five rivers in the last scene were the worlds of Varuna. Bhṛgu was thus advised that 'if a man performs the due offering, the trees in the world to come do not eat him, nor animals, nor rice and barley'. The rule 'he eats me whom I eat here' does not apply to a sacrificer in respect of objects and beings injured by him in the performance of the sacrifice. While a sacrificer gains 'the river of butter', 'those who do not rightly understand and practise the rites of sacrifice depart to the next world before the natural term of their terrestrial life'.[9] Thus the sacrifice, which incidentally fulfilled all desires of the present life, conferred not only the world of heaven with its life of pleasure and gaiety shown to Bhṛgu in the sixth scene but also immortality, that is, freedom from renewed death in the other world of which men are in deep fear.[10]

The Brāhmaṇa period culminated in formalism wherein man's relations with the ultimate reality were mechanical, a question of give and take. Those who felt disgusted with this cold religion retired into forests where, in an atmosphere free from the suffocating life of sacrifice, they concentrated on that great principle which was the object of inquiry in the later phase of the Ṛgveda. The early thinkers had conceived of a deity which they named Prajāpati, Puruṣa, Viśvakarman etc., and which they had regarded as the creator and controller of the world. It was, however, left to the later philosophers to go into the nature of this ultimate reality, and their passionate searchings are embodied in the works called the Upaniṣads.

The principle of sacrifice came to be re-interpreted and allegorized on the one hand, and its futility was indicated on the other. 'Sacrifices are like those unsteady boats on the ocean of life which may take one at any time to the bottom of the sea. Those who regard sacrifices as the highest good of the human life, go again and again from old age to death. Living in the midst of darkness these soi-disant wise men move about to and fro like blind men led by the blind.'[11] Sacrifices alone do not help man as they give admission only to the world of the fathers. Men are then led back to a new earthly existence after the fruition of the reward. 'Day and night consume in yonder world the worth (of good works) for him who does not know this' (T.B. III 10, 11, 2). Side by side, the objects and the actions involved in the sacrifice were gradually replaced by symbolic meditations. Instead of sacrificing an actual horse, the dawn was said to be the head of the horse, the sun its eye, the wind its life, the fire its mouth and so on. Similarly, 'Instead of the common sacrificial fire in which offerings are made, a number of extraordinary fires are pointed out, beginning with the heaven, which has "the sun as its fuel, the solar ray as its smoke, the moon as its cinder", and so on.' 'Real sacrifice consists in making oblations to the *prāṇa* within us. One who does not know this inner sacrifice, even if he were to go in for a formal sacrifice, throws oblations merely on ashes. . . . Knowing this inner sacrifice, even if he were to give the remnant in charity to a *cāṇḍāla*, it will be indeed an offering to the fire (*vaiśvānara*) within him.' 'Actual sacrifice lost its value which now came to be transferred to "diverse mystical significances and imports" and to the meditation of the symbols as the highest and the greatest.'[12] And through this a transition from the religion of sacrifice to the philosophy of *jñāna*, which sought to direct man's mind inwards, was accomplished uninterruptedly.

'By knowledge they climb upwards
Thither, where desire is quenched,
No sacrificial gift reaches thither,
No penance of the ignorant.'[13]

The new doctrine of *jñāna* taught that Ātman (the inmost essence in man), the lord of breaths, is at the same time the lord of the gods, the creator of all beings; all the worlds are an emanation of this great universal self, Brahman. 'Whoever finds even the slightest difference between himself and the Ātman, there is fear for him.' This conviction that Brahman without and Ātman within are one and the same was embodied in the famous aphorisms 'tat tvam asi'='thou art That', and 'aham brahmāsmi'='I am Brahman', and was amplified by various similes.[14] As from a lump of clay all that is made from clay is known, so when this Ātman is known everything else is known. This universe, the world of nature, Brahman has himself projected out of Himself for sport and it will ultimately return to Him. As a spider ejects the threads out of itself and spins its web therewith and again retracts them when it desires, so is the world spread out by Brahman from Himself and will be again merged into Him at His will. 'As the sparks from the well-kindled fire spring forth in thousands so, from the imperishable, living beings of all kinds go forth and again return to Him.' 'As the rivers originating from the ocean return back to it and become the ocean themselves, though they do not know that they are so, so do the souls.' In other words, these are but names and forms,[15] and when

Brahman is known everything else is known. Ātman pervades things as the salt dissolved in water pervades the water.

The Upanishadic sages, even when they conceived Brahman as the highest reality, did not ignore the claims of the world of matter. 'The artistic and poet souls of the Upaniṣads lived always in the world of nature and never cared to fly out of it. The Upaniṣads do not teach that life is a nightmare and the world a barren nothing. Rather it is pulsing and throbbing with the rhythm of the world harmony. The world is God's revelation of Himself. His joy assumes all these forms.'[16]

The reality of this phenomenal world was not inconsistent with the ultimate sole reality of Brahman, as the world did not exist besides Brahman and apart from Him, thus giving rise to duality. 'As gold is the essence of gold ornaments, Brahman is the reality of the world, its *sattāsāmānya* or common substratum.' Or, as is still more beautifully expressed: 'My son, that subtle essence (of the seed of the Nyagrodha tree) you do not perceive here; but of that very essence this great Nyagrodha tree exists. Believe it, my son, that in what is the subtle essence all that exists has its self. It is the True. It is the Self, and thou, O Śvetaketu, art it.' All this wealth of similes and images asserted and reasserted the oneness, *tādātmya,* between Brahman and the world. The world evolved out of Him when He willed to be many; it is maintained in Him and will ultimately be involved in Him when He so desires. Hence, 'Wherever they assert that Brahman is the sole reality they are careful enough to add that the world is rooted in Brahman, and as such has a share of reality.'[17]

And yet, 'hunger and thirst, woe and delusion, age and death. desire for children and desire for possessions are lumped alike as the evils and vanities of life, before the highest knowledge has been attained.' This apparent contradiction was resolved by Yājñavalkya, who expounded to his wife, Maitreyī: 'All things of the world, and every relation in the world are dear to us not because of their own value, but because of the Ātman, their true essence. Wife, husband, sons, wealth, the high stations of priest and warrior, the worlds, the gods, the Vedas and the sacrifice are dear to us not because of their own value but because of the Ātman. As one grasps the tunes of an instrument with the instrument itself, so are grasped all things when the Ātman is grasped. Truly he that hath seen, heard, recognized and understood the Ātman knows the whole world.' Hence, ' With all attractions, fascinations and beauties of life, life is felt to be a fetter, or a knot which ties the heart to the world of sense ; and release from the everlasting round of lives is the salvation.'[18] The Upanishadic sages stressed the divine in man, his awakening to the realization of this divine within himself, and the consequent submergence of all temporal interests—wife, children, home and property.

This knowledge of the universe being part and parcel of Brahman, of Brahman being the sole ultimate reality and of Ātman being the same as Brahman, emancipates man. ' As the flowing rivers disappear in the sea, losing their name and form, so a wise man, freed from name and form, goes to the divine person who is beyond all.' This is a state of rapture and ecstasy, *ānanda,* which is the attribute of Brahman. 'The nature of eternal life is . . . a state of joyous expansion of the soul.' Emancipation in the Upaniṣads is not a new acquisition nor is it the product or effect of any action. It is the realization of one's true nature. Knowledge (*jñāna*) is not a means to an end ; it is liberation itself. ' Emancipation is the natural and only goal of man simply because it represents the true nature and essence of man.'[19]

With this new doctrine of emancipation through *jñāna* dominating Hindu thought in the Upaniṣads, we find a corresponding change in the old theory of retribution. The Brāhmaṇas, or even the Upaniṣads, do not present a single system of thought. Various viewpoints and diverse opinions have been given in these works showing in some respects a slow evolution and sometimes different attempts and approaches to grasp the true nature of the universe and all that it implies. We cannot, therefore, describe a single course of evolution or a single system of thought, because there is no such thing in these works. We can only attempt to indicate therefrom trends which appear to be consistent and logical.

In the old theory of retribution it was suggested that the good or evil which we do to anyone here, is done to us in the other world. The Brāhmaṇas also say that after the death of a man his good and evil are laid on the scales and 'whichever of the two sinks down that will he follow whether it be the good or the evil'.[20] Naturally all do not find their way to the heavenly world, a view that we find in the Ṛgveda, but heaven is the world of those who have done good. Others are kept at a distance from the world of the fathers for a longer or shorter period according to their misdeeds.[21] The way to heaven is not easy; 'The Ādityas among others seek to keep back those who aim at heaven.' 'The dead leaving this world pass between two fires which burn the wicked but let the good go by.' This idea of discrimination is also conveyed, though differently, in other passages. 'The dead is subject to the power of the sun, which is death; all creatures below it are subject to death, those above are free.' Hence: 'The just men are the rays of the sun, and the constellations are appropriated to those good men who go to the world of heaven.' This return to the world of the sun is found elaborated in the oldest Upaniṣad: 'When a man departs from this world he comes to the wind. The wind opens for him a hole as large as the hole of the chariot-wheel, through which he moves upwards and comes to the sun. The sun opens for him a hole as large as the hole of a *lambara*, through which he moves upward and comes to the moon. The moon opens for him a hole as large as the hole of a drum, through which he moves upward and comes to a world where there is neither sorrow nor snow and there he stays eternally.'[22]

But what is the exact import of good and evil in these passages? In the passage above, the misdeed was the ill-treatment of a Brahmin, and a similar action is said to be a misdeed elsewhere too. According to Atharvaveda (v 19, 3, 13), those who spit at Brahmins or cast on them the mucus of the nose sit in pools of blood chewing their hair for food. The tears which roll down from the eyes of the lamenting Brahmin who has been oppressed are assigned to them as their share of water by the gods. This passage indicates how the superior status of the Brahmin was upheld. But it also indirectly suggests what was considered to be evil. The Brāhmaṇas commonly refer to 'the world of the pious', *sukrutām loka*, but do not define precisely the nature of *sukruta*, good deeds. The idea of *sukruta* is also expressed by the word *iṣṭāpūrta* in the Vedas and the Brāhmaṇas. But even with the help of that word it is difficult to define the nature of *sukruta* in the age of the Brāhmaṇas. 'May you (the recently dead) join the Pitṛs in the highest heaven.' 'May the *iṣṭāpūrta* of our ancestors save us (from our enemy).' Evidently the *iṣṭāpūrta* stood for the good a man had done here on this earth, his piety. In the Brāhmanas piety consists in the performance of sacrifice, and hence the sacrifice and matters connected with it seem to have been regarded as the *iṣṭāpūrta* of man. 'When he comes by the *devayāna* path, make you his *iṣṭāpūrta* manifest to him. . . . Whatever sacrifice was offered, whatever was handed over (*pradānam*), whatever was given, and the fees (*dakṣiṇā*) offered, may Agni present in all actions place all that in heaven among the gods for us.' 'The Brahmin should sing " you made gifts, you performed sacrifices, you cooked food (for serving to others)". Indeed *iṣṭāpūrta* belongs to a Brahmin ; he makes him (the king) prosper by *iṣṭāpūrta*.' Even in the later literature *iṣṭa* implied 'what is offered in the domestic fire (*gṛhyāgni*), what is offered in the three sacrificial (*śrauta*) fires and the gifts made inside the *vedi*'. It is only in the post-Vedic literature that charitable works like the sinking of a well, digging of a tank, building of a temple, construction of a garden, or food-giving came to be denoted by *pūrta* and sacrifice, penance, truth, Vedic study, hospitality, and Vaiśvadeva by *iṣṭa*.[23]

Like the Rigvedic world of the fathers to which the dead repaired for immortality, the world of the sun or that of the moon is the destination of the dead in post-Rigvedic literature, and immortality is the *summum bonum* of life. Immortality is, however, said to last a hundred years, which is the ideal span of life of man in this world. It means then that at the end of that period some fate, the nature of which is not clearly indicated in these works, awaits a man. And it is perhaps because of this perishable nature of immortality that Naciketas, when he was asked by Yama to choose three boons, desired, as his second boon, the imperishableness of good works. Consistent with this view of limited immortality gained by good works, we find in this literature a distinction made between the world of gods and the world of the fathers, *devayāna* and *pitṛyāna*, one leading to immortality and the other to a limited immortality. 'Those who, living in towns, lead a life of charitable deeds, and perform works of public utility' travel by the *pitṛyāna* 'from smoke to night, from the night to the dark half of the month, from the dark half of the month to the six months during which the sun moves to the south' and thence 'to the world of the fathers, from the world of the fathers to the sky, from the sky to the moon. Having consumed their accumulation there they return again by the same path.' On the other hand, 'those who practise penance with faith in the forest, whether after their death people perform their obsequies or not', enter the path of light and 'from night to day, from day to the bright half of the month, from the bright half of the month to the six months during which the sun moves to the north, from these months to the year, from the year to the sun, from the sun to the moon, and from the moon to the lightning. There is a person not-human who carries them to Brahman. Those who proceed on this path know no return to the cycle of human existences.'[24] This picture of the *devayāna* by which the dead 'reaches regions of ever-increasing light, in which is concentrated all that is bright and radiant, as stations on the way to Brahman' is compatible with the Upanishadic concept of Brahman, 'the light of lights'. The *pitṛyāna,* as its counterpart, has darkness and gloom, and consistently leads again to life, a condition equally gloomy to the Upanishadic thinkers. While good works lead to the world of fathers, knowledge alone leads to the world of good, the abode of bliss.[25] Thus, with the Upanishadic doctrine of *jñāna,* immortality is the preserve of those alone who were *jñānī;* others who indulged in works of piety or austerity were promised a reward of perishable nature. The old idea of renewed births in the other world was thus reoriented into a return to some kind of new life on the consummation of the reward of one's *sukrutam.*[26] The old Rigvedic faint conception of a path leading to the joyless regions enveloped in darkness finds more explicit and concrete expression as the third path along with the above two in the Upaniṣads. It is the fate of the ignorant and the unenlightened, those who have destroyed their souls, and of the creatures low in the scale of evolution—worms, insects, tigers, lions, etc.—creatures which 'live to die'.[27]

With this conception of the *pitṛyāna* by the side of *devayāna*, the concept of limited immortality starts with the analysis of the nature of return. We have in the oldest Upaniṣad two interesting dialogues by Yājñavalkya. Ārtabhāga asks Yājñavalkya, 'If after the death of a man his spirit goes into fire, his breath into wind. his eyes into the sun, his mind into the moon, his ear into the ether, the hair of his body into plants, the hair of his head into trees, the blood and semen into water —what then becomes of the man?' Yājñavalkya reaches the conclusion: 'Verily one becomes good through good deeds, evil through evil deeds.' It is clearly suggested that it is not the body that matters but character that survives the disruption of death. In the second dialogue he elaborates the theory of *karma*: 'And as a caterpillar, after reaching the end of a blade of grass, finds another place of support and then draws itself over towards it, so this self also at the end of this life . . . finds another place of support, and then draws himself over toward it. And as a goldsmith, after taking a piece of gold, chisels out another newer and more beautiful shape, so does this self, after having shaken off this body and dispelled ignorance, fashion for himself another newer and more beautiful form, whether it be of the fathers, or the Gandharvas or the gods, or Prajāpati or Brahman, or any other living beings. This self, then, becomes as his act (conduct) and behaviour has been. He whose works have been good becomes good; he whose works have been evil becomes evil. By holy works, he becomes holy: by sinful works, sinful.'[28] The soul is here said to create a new body for himself before he parts with the old one. This new body is a better and more beautiful one in accordance with his holy works and good conduct. The shape of the form to come thus depends on the nature of actions and knowledge that follow him. But as against a higher life in divine, semi-divine or human form promised here we find elsewhere birth as a Brahmin. Kṣatriya or Vaiśya on a higher plane and as a dog, pig or *cāṇḍāla* on a lower plane.[29] And with this, the theory of *karma* is evolved.

Emancipation implies freedom from this cycle of births and deaths. In order to achieve this one must attack *karma* from which this bondage proceeds. Yājñavalkya shows how this can be done by going to the root of *karma*. 'Man is altogether and throughout composed of desires (*kāma*); as are his desires so is his insight (*kratu*); as is his discretion so are his acts, as is his deed so is his destiny.' Hence: 'If the Self has left any desires in him while yet he lives in his body, he returns from his sojourn to this existence again; if no desires be left in him, he becomes one with Brahman.' Under the circumstances one must eradicate discretion (*kratu*) in order to eradicate *karma*, and discretion is destroyed by eradication of desire. In the final analysis, then, it is desire that binds a man to this world and things worldly and makes him liable to birth and death. The destruction of his desires would, therefore, enable man to free himself from the cycle of births and deaths, to become eternal. *Karma* is thus only a connecting link between desires and rebirth. Hence: 'When all the desires that are in his heart are got rid of, the mortal becomes immortal and attains Brahman here.'[30] This eradication of desires was possible by the right knowledge of the Self. It was at a later stage in the Bhagavadgītā that a new approach was made to this problem of dispensing with the desires. The Bhagavadgītā insisted on the sublimation rather than the eradication of desires, and that was to be done by knowing the true nature of *karma*.

Although this short sketch of Vedic thought—from prayer to philosophy—is presented to indicate an evolution of thought, it is not intended here to contend that this is the only correct and rational understanding of Vedic religion and philosophy. Hindu literature abounds in varied approaches and manifold methods of grasping the ultimate reality and of comprehending its true nature. The social philosopher attempts to understand the unity underlying the apparent diversity by seeking continuity of the present with the past, in which it is rooted, and its projection into the future. The Hindu respect for tradition has a meaning and purpose, as it seeks to achieve homogeneity and harmony of thought. The different phases merely represent differences in emphasis at different historical periods. Hindu thinkers themselves gave expression to it when they said. Truth is *dharma* in Satyayuga, *yajña* in Tretāyuga, *jñāna* in Dvāparayuga and *dāna* (charity) in Kaliyuga.

The Bhagavadgītā forms part of the Mahābhārata, which depicts the great war fought somewhere about 1000 B.C. and which is supposed to have been compiled in its present form by about A.D. 400, and presents in simple yet sublime words a new philosophy of life, the philosophy of *karma*. The importance of the Bhagavadgītā for the proper understanding of the Hindu outlook on life lies in the fact that all the leading writers of Bhāṣya, beginning with Śaṅkarācārya, accorded it a place in *prasthānatrayī* along with the Brahmasūtras of Bādarāyaṇa and the Upaniṣads, in formulating their philosophy. The Gītā has a particular significance for a sociologist because the Vedic ideals of sacrifice (*yajña*) and knowledge (*jñāna*) and the theory of *karma* developed in the Upaniṣads are not only co-ordinated, but are given new meaning and significance consistent with the philosophy of *karma* which is its central theme. The Gītā also devotes considerable space to the teaching of the cult of *bhakti* of Vāsudeva Kṛṣṇa which was developing contemporaneously with the Upanisads and rose into prominence at the end of the Vedic period. It was in keeping with the realities of the time that the author of the Gītā brought together the various shades of thought and different modes of religious expression in a harmonious blending. It is not presumed here that the Gītā is a synthetic work in which the different systems of Hindu philosophy have been welded into a single whole. But it is asserted that the author seeks to co-ordinate (and he does it successfully) the institution of sacrifice, the philosophy of *jñana*, the doctrine of *karma*, the cult of *bhakti* and other Hindu religious and philosophical conceptions as contributory to the ethical development of man, and thus shows the direction of his spiritual progress.

The Gītā (III 10-12) refers to *yajña* as a means to a desired end. In the Brāhmaṇas, the sacrifice offered heavenly joys, the *summum bonum* of life, but, by the time of the Gītā, heaven had lost its ancient glamour. It was a temporary sojourn of the spirit for the consummation of the rewards of meritorious acts. The Upanishadic philosophy of emancipation through *jñāna* had minimized the significance of sacrifice, and consequently the sacrifice was reinterpreted as a meditation of Brahman. The Gītā refers to this when it says: 'It is made to Brahman, Brahma is the offering which is offered by Brahman in the fire that is Brahman: he, who meditates on Brahma-*karma* goes to Brahman.' But it extends the scope of the allegory by such new concepts as *tapoyajña, yogayajña* and *svādhyāyayajña.* 'All those, conversant with the sacrifice, have their sins destroyed by *yajña.* Those who eat the nectar-like leavings of the sacrifice repair to the external Brahman.' Sacrifice was desirable because those who perform no sacrifice do not gain this world, much less the other worlds. But it was not the sacrifice performed with material things: 'The sacrifice of knowledge is superior to the sacrifice with material things because *karma* in entirety is comprehended in *jñāna'* (IV 24-33). But the Gītā still further enlarges the meaning and significance of sacrifice. The seasonal sacrifices and the sacrifices which were continued over months and even years under the superintendence of a group of priests had become rare, if not obsolete, by this time. Yet every householder was duty-bound to perform a daily sacrifice in the sacred domestic fire which was kindled at the time of marriage. This domestic sacrifice had a different significance inasmuch as it had a social import. 'The good, who eat the leavings of a sacrifice, are released from all sins. But the unrighteous ones, who prepare food for themselves alone, incur sin. Food supports (all) creatures. Food is produced by rain. Rain proceeds from (the performance) of sacrifice' (III 13-14). Sacrifice thus conduces to the prosperity of men, and it is in the interest of the community that the sacrifice gets its new significance in the post-Vedic era.

The Gītā likewise refers to the philosophy of *jñāna*, knowledge of Brahman, for liberation, but reorients it in terms of *karma.* 'Even if you are the most sinful of all sinful men, you will cross over all trespasses by means of the boat of knowledge alone. As a fire well kindled reduces fuel to ashes, so, O Arjuna, the fire of knowledge reduces all actions to ashes. . . . He who is ignorant and devoid of faith, and whose self is full of misgivings, is ruined. He who is given to doubting attains neither this world nor the other nor happiness. Actions do not bind one who has known himself, who has destroyed his misgivings by knowledge and who has renounced action by Yoga' (IV 36-41). The Gītā talks of a Yogī 'who finds his happiness inward, who seeks his recreations within (himself), who turns to his light inward, who, becoming one with Brahman, attains Brahman' (V 24). Such a Yogī, 'who is solely engrossed in Self and who is contented in Self, has no actions to perform. He has no interests served by either doing actions or non-doings' (III 17-18). But the Gītā gives new meaning to the philosophy of *jñāna* when it demands even a Jñānī to perform his duties and be a man of the world, though not of it. For this concept of a Jñānī, the Gītā falls back upon the old Upanishadic traditions and looks to Janaka and others like him as the real representatives of the enlightened. The unattached Yogī has to perform actions for the benefit of the people. 'Whatever good a (higher) man does, others do also; what he makes authoritative (by his behaviour), people imitate' (III 20-21). His behaviour becomes the standard for others to emulate. They thus evolve the *mores* and hence are the real guides of society. It is because of this role of the enlightened that Lord Kṛṣṇa says: 'Should I at any time not engage myself without sloth in action, men would follow my line in every way. If I do not perform actions these worlds would be destroyed; I should be the cause of intermixture of castes and I should be ruining people' (III 23-24). Though a pertinent reference has been made here to the observance of the duties of *varṇa* as a proper norm, the contention of Lord Kṛṣṇa was to emphasize the need of action even by the enlightened for social stability. The very next verse reads: 'As the unenlightened act with attachment (to the fruits of *karma*), so should the enlightened act unattached, intent on the welfare of the world.' In view of this great task imposed upon the enlightened in the interest of the community, it is but necessary that these chosen leaders of society should be men of stature who would meet their obligations. And this is what the Gītā expects these leaders to be. A Jñānī is one who looks upon all equally. To him, a man or an animal, a male or a female, a Brahmin or an untouchable, makes no difference. With this outlook of equanimity towards all, irrespective of any consideration, he must be positively interested in the welfare of all beings. It is not only that his humanity should be broad-based but it must have equally sufficient depth. He seeks to understand all situations by ascertaining how he would have felt or reacted under similar circumstances (VI 29, 32; cf. 40). A man with this appreciation of humanity, vision of his objectives and disinterestedness in his doings, is capable of appreciating the enormities of inequality in any form and in any field of life. Inspired by the laudable motive of guiding people to their proper duties in life, the Yogis take to *karma,* actions, as a social obligation.

The author of the Gītā has given a new meaning to and has enlarged the scope of the Vedic sacrifice and the Upanishadic *jñāna.* But his greatest contribution is found in his reading of the doctrine of *karma* and in his proper appreciation of *karma* in the realization of spirituality in man. In order to cut short the operation of the law of *karma,* the Upaniṣads recommend the destruction of the desire in man which is the root of *karma. Karma* comes in the way of the realization of spirituality because, in the Upaniṣads occasionally and in the post-Vedic Manusaṁhitā and the Mahābhārata predominantly, the rewards and punishments of *karma* are linked with birth in a higher or a lower caste. Those with good actions to their credit are said to be reborn into higher castes; those with evil actions into the lowest castes or even as animals. *Karma* implies a recurrence of births and deaths, and liberation means putting an end to this cycle by destroying *karma* through the eradication of desires. The Gītā, on the other hand, reorients this pessimistic outlook and shows how *karma* can unfold the inner spirituality and thereby contribute to the supreme goal of emancipation. It is said: 'O dear friend, none who does acts of (general) welfare comes to an evil end. He who has fallen from Yoga attains the world of those who perform meritorious acts, dwells (there) for many a year and is afterwards reborn in a family of the pious and the rich. Nay, he is born in the family of the enlightened (*dhīmatāṁ yoginām*); such a birth as this is more difficult to obtain in this world. There he is contacted with the knowledge which belonged to him in his former life, and enlightened as he is, he strives for a higher (perfection) than that. . . . Striving with greater efforts and freed from his sins he attains perfection after many births and then attains the supreme goal' (VI 40-45). The reward of *karma*, according to this passage, is both material and spiritual, but it is the spiritual progress which is emphasized as the individual is said to gain in ethical development at the end of every birth. This stress on the ethical development of an individual after a number of births gives a new meaning to the doctrine of *karma*. A progressive realization of spirituality in man, instead of material gains by birth in a higher caste, is a distinctly new and better appraisal of *karma* for the development of personality, and hence in its reading of *karma* doctrine the Gītā strikes a new path.

The doctrine of *karma* as presented in the Gītā has two aspects: a positive one which confirms the inexorable law of *karma* and a negative one which absolves a man of his sins of omission and commission through the grace of God. The negative view is the product of two trends anterior to the Gītā which welds them into a cult of *bhakti* in such superb language and sentiments that the Gītā is rightly regarded as the best of Hindu scriptures in the Vaiṣṇava circle. It was clearly suggested earlier that neither the Brāhmaṇas nor the Upaniṣads propound a single doctrine or a system of thought but they contain in them various doctrines and viewpoints either explicitly developed or vaguely hinted at. We have referred to some views regarding life after death in the Brāhmaṇas and their final culmination in the doctrine of *karma* in the Upaniṣads. But we have not referred to an old view of *karma* which Hopkins sums up in these words: 'Man owes what he gets to the gods. What the gods arrange is, whether good or bad, the appointed lot; the arrangement, *vidhi*, is fate. If the gods bestow a share, *bhāga*, of good upon a man, that is his *bhāgya*, luck, divinely appointed, *diṣṭa*. As divine, the cause is *daiva*, which later becomes fate.'[31] According to this view, good fortune or misfortune in this life is not the inevitable concomitance of one's own actions but the result of the grace or will of God. Secondly, 'for ordinary people, an adorable object, with a more distinct personality than that which the theistic portions of the Upaniṣads attributed to God, was necessary and the philosophic speculations did not answer practical needs'. It seems that the worship of Vāsudeva had gained currency in the time of Pāṇini. By the second century B.C. the Bhāgavata religion with the worship of Vāsudeva of the Vṛṣṇī race as the God of gods prevailed in the north-western part of India. In the Mahābhārata, it is said that 'Hari, the God of gods, is not to be seen by one who follows the sacrificial mode of worship, nor by persons who practise austerities for thousands of years but by one who worships Hari with devotion'. In a later account of this story Hari is replaced by Vāsudeva and his three other forms (*vyūhas*), and the Supreme Nārāyaṇa identifies himself with Vāsudeva in his four forms.[32] Thus the view of *daiva* as God's favour was associated with this new religion of the Bhāgavatas and found expression in the Bhagavadgītā as the cult of *bhakti* of Kṛṣṇa, which was the only sure means of deliverance from the operation of the law of *karma*.

The man who whole-heartedly dedicates everything to Kṛṣṇa is emancipated irrespective of his *karma*. 'Those who dedicate all their actions to me and hold me as their higher goal, those whose minds are directed to me alone and to none else, those whose mind and intellect are concentrated in me, are my devotees and hence dear to me' (XII 6, 14). It is this bent of mind, this unsullied devotion that counts and not the nature of offerings made to the Lord. 'I am satisfied with leaf, flower, fruit or water that is given to me devoutly by my devotee' (IX 26). If a person is not capable of attaining this height, he is promised his redemption so long as his acts spring from the desire to propitiate the Lord, '*matkarmaparo bhava*'. 'Whatever you do, O son of Kuntī, whatever you eat, whatever sacrifice you make, whatever you give (in charity), whatever penance you perform, do (all) that as offered to me.' 'Thus by dedication of all acts to the Lord a person is relieved of the rewards or punishments of acts' (IX 27, 28; XII 10). 'Those who worship me with devotion (dwell) in me, and I too in them. Even if a man of very ill conduct worships me, not resorting to anyone else, he must certainly be deemed to be good, for he has well resolved. Even those who are of sinful birth, women, Vaiśyas and Śūdras likewise, resorting to me, attain the supreme goal. My devotee is never ruined' (IX 29-32). The author of the Gītā recognizes the prevalent distinction based on sex and those between the privileged—the Brahmins and the Kṣatriyas—and the unprivileged—the Vaiśyas and the Śūdras—classes, and seeks to mitigate the tension between these groups by promising to the downtrodden an opportunity of redemption. In so doing the author shows the greatness of the *bhakti* cult which is open to all, irrespective of sex or status, and can be utilized to one's advantage with great ease. The cult, as preached in the Gītā, does not insist that the mental equipment of a person be so much in tune with eternity as with his faith in the Lord and with the relation arising out of it. 'One who lacks in faith, who is a sceptic, destroys himself' (IV 39, 40; VI 47). The greatness of *bhakti* over other religious practices is affirmed by Lord Kṛṣṇa in his saying to Arjuna: 'I can be seen as you have seen me, not by (means of) the Vedas, not by penance, not by gift, not even by sacrifice; by exclusive devotion to me alone, I can in this form be truly known, seen and entered into.' Hence: 'Leave aside all (other) *dharmas* and seek only my protection.' '(Engage your) mind in me, become my devotee, sacrifice to me, bow to me, make me your highest goal; by so engaging yourself you will reach me' (XI 53, 54; XVIII 66; IX 34).

Even when the Gītā has so elaborately and in such superb language dealt with *bhakti,* holding out promise of redemption to everyone, the author has not failed to lay stress on the ethical development of the devotee. 'He who performs acts relating to me, who regards me as the highest goal, who is my devotee, who is unattached, who has no enmity towards any being, comes to me, O Son of Pāṇḍu' (XI 55). In the chapter specifically called Bhaktiyoga we find this insistent demand on the ethical development of the devotee. The devotee is a person who restrains his senses, who has no discriminating attitude towards anybody, who is intent on the good of all, who hates no being, who is contented, who is friendly to all, compassionate and forgiving, and from whom people expect no affliction. He does not experience joy or aversion, grief or hilarity; to him happiness or misery, the auspicious or the inauspicious, joy or anger, fear or agitation, are alike. He has nothing he can call 'mine': he expects nothing. He does not feel that he is the agent of anything; he is indifferent; he is free from any attachment (xii 4, 13-16). This equipment of a devotee in no way differs from that of a Yogī living a life of *karma* or that of a Jñānī in the Gīta (v 3, 7, 20; iv 21, 22, 23; vi 29). And this is the central point of synthesis of the different religious forms and philosophical theories. The Gītā insists on the ethical development of man. This perfection of the individual is not possible for all and hence it prescribes, for the weaker section of humanity, ethical development by the dedication of all actions and all objects of material interest to the Lord; thus becoming immune to the attachment of the world and things worldly.

The Gītā touches upon the traditional modes of salvation and also refers to the traditional doctrine of *karma*. All are co-ordinated, synthesized and harmonized as being the different ways, suited to the various facets of human mind and to the different stages of development in the case of the same individual, of cultivating disinterestedness in the world and things worldly. Yet the Gītā insists that a man cannot attain his freedom by not engaging himself in action or by mere renunciation, because one cannot cease performing actions even for a moment. Even a Jñānī would be constrained to perform actions by the *guṇas* born of *prakṛti*. But he knows that he is not the agent of the actions. which in every way are done by the *guṇas* of nature (*prakṛti*), *sattva, rajas,* and *tamas*. When a man realizes this fundamental truth he becomes *nirahaṁkāraḥ,* bereft of the pride that he is the agent, and is not bound by actions because to him they are the interplay of *guṇas*.

As his actions are performed with complete detachment, he has nothing to call 'mine'. He is *nirmama*. When he has nothing to call 'mine' he overcomes *rāga,* attachment, and *dveṣa,* prejudice. Attachment is the product of the *rajas* quality in man and conduces to desire, greed, etc. Prejudice is the product of the *tamas* quality in man which conduces to anger. When a man overcomes attachment and prejudice he controls the *rajas* and the *tamas* qualities in him, the non-divine (*āsurī saṃpat*). When the two qualities are thus subdued the third, the *sattva,* predominates. The divine in him, *Daivī* *saṁpat*, stands out prominently. Hence is it said, 'Attachment to *guṇas* binds man to the cycle of births and deaths.' 'One who is above the *guṇas* liberates himself.' The life of actions lived with this perspective of the real nature of *karma* makes man free from the operation of *dvandva*. There is nothing which he can call a good action or a bad action. He is not overjoyed by prosperity nor is he cowed down by calamity. There is no one whom he would call his friend against another whom he would regard as his enemy. He is not only *samadarśī*, who regards all equally, but *nirvairaḥ*, who bears no enmity towards any one, and *kṣamī*, forgiving all. This stage of equanimity is attained by performing actions without any idea of reward proceeding from their performance and is called yoga, *samatvaṁ yogamucyate*.

The Gītā thus shows different approaches leading to the same goal, namely disinterestedness, which really conduces to the realization of one's true nature. And this goal is achieved by man by continuing to perform the actions from which there is no escape. *Karma* is therefore the central theme of the Gītā, and the greatness of that great work lies in fact that it makes the world and worldly things real and inevitable. The Gītā preaches neither escape from life nor repression of man's urges. That philosophy of yoga where yoga means the restraining of the activies of mind (VI 20) is not accepted by the author of the Gītā. The Gītā, on the other hand, defines yoga as proficiency in the performance of the *karmas*. It insists on a normal life which promises the realization of spirituality and shows how the higher purpose of life can be realized in and through society.

2

ASRAMAS

HINDUS ARE GENERALLY SAID TO CONCERN THEMSELVES MORE with life hereafter than with life here. They are supposed to ignore the present and despise normal life on earth. It is true that the end of life is conceived to be liberation from the cycle of births and deaths and involution in the universal soul, *paramātman,* whose manifestation in miniature the individual is. Yet it is equally true that Hindu philosophers recognize and assert categorically the reality of the universe and the inevitability of the life of action. A long life on this earth is wished for, and life in pursuit of action is said to be natural to the human mind, *prakṛti.* This is so because the Hindu sages do not conceive of antithesis between the enjoyment of life and spiritual freedom. Together these constitute the fulfilment and enrichment of life.

From the time of the Ṛgveda we find a life of a hundred years wished for. In the Brāhmaṇa period immortality in the world to come is the *summum bonum* of life ; yet, 'It is the aim of man not merely to achieve immortality as eternal life hereafter, but also the full age of a hundred years. . . . Those who died under twenty years of age by a weird conception attain as their abode the days and the nights, those under forty the half months, those under sixty the months, those under eighty the seasons, those under a hundred the year, and those over a hundred years the boon of immortality.'[1]

This wish for a long span of life is not inconsistent with the devout wish for liberation, and the harmony between the two was unfolded by Hindu sages in their theory of *puruṣārthas.* According to this theory there are four *puruṣārthas,* or aims of life: *dharma, artha, kāma* and *moksa. Moksa* represents the end of life, the realization of an inner spirituality in man. *Artha* refers to the acquisitive instinct in man and signifies his acquisitions, enjoyment of wealth and all that it connotes. *Kāma* refers to the instinctive and emotional life of man, and provides for the satisfaction of his sex drives and æsthetic urges. They together represent his temporal interests, the activities and pursuits of life in this world. *Dharma* provides a link between the two, the animal and the god in man. The fourfold aims thus seek to co-ordinate the activities of man for the realization of his spirituality.

The ultimate end of life is said to be *mokṣa.* It means that the true nature of man is spiritual, and the mission of life is to unfold it and to derive thereby the meaning and joy of it. The Hindu sages have attempted to work out the proper mode of this process of unfolding. They were fully conscious of the fact that human nature has varied facets: the instinctive and the intellectual, the economic and the spiritual, the emotional and the aesthetic. These various interests of man may appear to be contradictory and inconsistent, but they all need expression for a man to be truly human. The ascetic view of life demands that man ignores his material hopes and aspirations, his instinctive urges, his emotional and æsthetic outpourings: for they are viewed as dangerous in man's strivings towards the realization of inner spirituality. The Hindu thinkers, on the other hand, instead of decrying them as wicked or dangerous, accepted them as conducive to the development of personality. The struggle of life consisted, according to them, in evolving a harmonious blending of these different colours ; a melodious symphony of these diverse tunes. This harmony constituted the integrated personality. The normal life was conceded its full expression ; and the attainment of spiritual progress was sought by assigning proper values to each of them and by prescribing the mode of its expression.

Kāma as the satisfaction of the instinctive life is recognized as one of the aims of marriage, along with *dharma* and procreation. But it is the lowest in the order of precedence, and consequently if one is to be renounced, sex is the first to go. Sex finds its meaning in procreation ; therefore it is the least valuable end of marriage. In this apportionment of the order of precedence to the different aims of marriage the Hindu thinkers tried to assign the place of sex in the life of man. But *kāma* does not mean only instinctive life ; it means emotional and æsthetic life as well. The æsthetic in man expresses itself in both creation and appreciation of all that is fine and sublime. Man is by nature creative, and the best part of his personality is stifled if he is not allowed to give expression to the creative in him. Life finds its greatest joy in this act of creation. The appreciation of all that is beautiful expands and enriches man's life. Repression of emotional expression recoils on the health and sanity of the individual. The healthy development of the personality calls for the expression of the emotions. What is needed is their proper channelling, and this the theory of *puruṣārthas* does by prescribing the modes and measures of their expression.

Artha is the satisfaction of the acquisitive instinct in man. By according *artha* a place in the scheme of life, Hindu thinkers applauded the pursuit of wealth as a legitimate human aspiration. Further, by recognizing *artha* and *kāma* as desirable for man, the Hindu sages indicated that man unfolded his spirituality only when his life was not economically starved or emotionally strained. Again, the reality of the world preached in the Upaniṣads loses its significance if these temporal interests are denied, and asceticism or renunciation of this world and things worldly is applauded as in Buddhism. But while accepting sex instinct, emotional urges and economic drives as necessary and even desirable, it is stressed, as it should be, that they are not the ultimate ends of life.

Dharma is knowing that *kāma* and *artha* are means and not ends. A life that is dedicated to the unrestrained satisfaction of these urges is undesirable and even dangerous. It is consequently necessary that it should be regulated by the ideal of spiritual realization, and this is what *dharma* is required to do. By providing direction to the acquisitive and emotional drives in man it makes the enjoyment of life consistent with man's spiritual progress. The harmony between temporal interests and spiritual freedom is thus achieved by the discipline prescribed by *dharma*. The theory of *puruṣārthas* thus seeks to co-ordinate material desires and spiritual life. It also tries to satisfy the sex and parental instincts in man, his love of power and property, his thirst for an artistic and cultural life, his hunger for reunion with the *paramātman*. It comprehends life as a whole, its hopes and aspirations, its acquisitions and enjoyments, its sublimation and spiritualization.[2]

The theory of *puruṣārthas* is given concrete expression in the Hindu scheme of *āśramas*. According to the scheme, life is divided into four stages—*brahmacarya*, *gṛhastha*, *vānaprastha* and *saṁnyāsa*, every stage having its own duties and functions. The prescribed duties of these stages of life provide healthy restraints on the instinctive and impulsive life of man and thereby prepare him for *mokṣa*, freedom from the cycle of births and deaths.

An individual enters upon the first stage of life on the performance of initiation rites, when he is said to be reborn, *dvija*. Life before the initiation is undisciplined and unregulated, a life without a purpose. It is unregulated in the sense that man follows his inclinations in behaviour, speech and eating. The initiation ceremony, *upanayana*, initiates man into the disciplined life and that is why it is an important ceremony in the life of a twice-born. Man is born a Śūdra ; he becomes *dvija* by sacrament. Initiation takes place at the age of eight in the case of a Brahmin ; a Kṣatriya is initiated at the age of ten, and a Vaiśya at twelve. It may be postponed to twelve in the case of a Brahmin, to fourteen in the case of a Kṣatriya or to sixteen in the case of a Vaiśya. Those who are not initiated within these age-limits lose their right of learning the *sāvitrī* ; they become *vrātyas* and do not conform to Aryan traditions and practices.

The initiation rites marked the beginning of schooling in the Vedic texts at the teacher's house. The initiated, however, did not begin his study at once. He was asked to perform various types of work assigned to him by his teacher. He looked after his cattle, brought fuel, performed some duties relating to sacrifice and collected alms for him. It was only when he had succeeded in pleasing his teacher by his daily rounds of duties, and when the latter was convinced that he had evinced a real desire for study, that the Vedas were unfolded to him. The Vedas embody the cultural traditions of the Aryans, and it was necessary that these traditions should be passed on from generation to generation. Even when writing came to be known, the Vedas were not reduced to writing,[3] but had to be handed over to the coming generation orally. Vedic study was thus an important duty in man's life. One who is older in age is not the senior member of the family; a child learned in the Vedas is the father of his uneducated father. Not only did this require the best part of life to be devoted to their study, but the recitation of the Vedas came to be looked upon as a duty throughout life. The study of the Vedas was further regarded as a debt which one had to redeem in life. A man was said to be born with three debts: the debt to the sages, the debt to the gods and the debt to the Pitṛs. The debt to the sages, the ancient greats, was liquidated by the study of the Vedas and by continuing literary activities.[4] Vedic study was thus an obligation, and it had to be made so because the cultural heritage of the community had to be perpetuated that the life of the coming generation might be inspired and directed.

The most striking thing about the discipline of a student was his high reverence for the teacher. He should not sit carelessly or at ease in his presence. He should go to bed after and get up before his teacher does. By censuring his teacher, even when he is just in doing so, he will become an ass in his next birth; and by falsely defaming him he will become a dog. The behaviour pattern between the pupil and the teacher mainly aimed at cultivating in the pupil an attitude of deep reverence for his teacher. As the cultural tradition had to be transmitted orally, a section of the community was entrusted with the task of preserving it by studying it, expanding it and imparting it to others, and was consequently given the highest status in the community. The teacher was equated with God. Vedic study was regarded as a debt to the great seers of the past. In *ṛṣitarpaṇa*, at the time of morning prayers, the literary geniuses of the past were remembered and revered. An unbroken succession of teachers, the pupils of the same teachers and their pupils together constituted one of the societies, *vidyāvaṁśa*, which had a strong element of cohesion in ancient India. In the Dharmasutras and Smṛtis the religious fraternity was not merely one of kinship, but had clustered round it significant social and property rights and obligations.[5] But for this behaviour pattern and social ideal, the literary heritage could hardly have been preserved unadulterated[6] for centuries.

A number of rules and regulations governing a student's daily routine and a list of the qualities that fitted him for studentship are given in the Dharmasūtras and Manusaṁhitā. A student had to rise up early in the morning before sunrise. If he was asleep when the sun rose, he had to utter the *gāyatrī* and fast for the whole day. He should take his meals only twice a day and avoid over-eating. He should not take meat, honey, salt, sweet things or betel leaf or food that is stale. He should refrain from anointing his eyes and embellishing his body with ointments and should never use scent. He should go about without carriage, without shoes or umbrella. He should avoid women ; talk with them only when necessary and never more than is necessary. The student was required to embrace the feet of his teacher's wife on his return from a journey ; but even that he was supposed to avoid if he had attained majority. He was equally supposed to avoid the enjoyment of music and dancing, nor was he allowed to play on musical instruments.

Besides intellectual equipment and a disciplined life, the achievement of studentship was training in character or ethical life. A student should learn to restrain his senses. 'One who knows the *sāvitrī* only but can completely govern himself is better than one who knows all the Vedas but cannot control himself.' 'He whose speech and thought are pure and even perfectly guarded gains the full benefit which is attainable by the study of the Vedas."[7] In this control of the senses the control of the sex instinct was prominently stressed. This stage in life was called *brahmacarya* because every individual going through it was expected to observe complete celibacy.

Studentship is a stage of life that is marked by the rapid growth of the body, emotional instability, the development of the sexual functions and the stimulation of sexual activities. It is a period of storm and stress, of impulsiveness, of strong self-expression. It is the social environment which gives the right or wrong direction to this new impulse in an organism which seeks an outlet for expression. The Hindu sages tried to regulate the life of the student in a way that would tend to a balanced development of the adolescent. They prescribed the proper discipline for the mind as well as the body. A student was taught to look for only those things which were necessary for his physical upkeep. He was also asked to put his body to severe strain. He was taught to engage his mind in more worthy pursuits than merely bodily decorum and comforts, and to direct his energies to purposeful activities. It was a hard life indeed, but the kind of life that was bound to withstand the storm of adolescence. It might be dubbed as a repressed life, but there could hardly be any talk of repression when the whole routine was regulated and the body was thereby disciplined for a higher end in life.

The rules were intended to teach, at a very early stage in man's life, that the material side of life is not more important than its spiritual counterpart. One should learn even in childhood that material needs should be few and simple, because they are only a means to a higher life. One who is given over to looking for bodily comforts and physical joys cannot properly understand the place of *artha* and *kāma* in life. Man thus learns his proper *dharma* in the first *āśrama*.

With this equipment gained when a student he entered on the second stage of life, *gṛhastha,* the life of a married man. The aim of marriage, according to the Hindu sages, was *dharma*, progeny (*prāja*) and sex (*kāma*). Personal gratification is one of the ends of marriage ; but the last place assigned to it clearly indicates that it should not be the guiding rule of life. Marriage is more a social obligation as its main purpose is the performance of *dharma* and the perpetuation of family, as well as the continuation of the group, through progeny. *Dharma* in the case of a married man consisted of performing the five *mahāyajñas* in the sacred fire enkindled at the time of marriage. These *yajñas,* according to Manusaṁhitā, were offered to Brahman, Pitṛs, gods, *bhūtas* (creatures) and men. Brahman was satisfied by the recitation of the Vedas, Pitṛs by *tarpaṇa* (offerings of water and food) or *śrāddha,* gods by the burnt oblations, *bhūtas* by bali offerings and men by the reception of guests. The theory of the three debts embodied the first three of these five great sacrifices. Reverence to guests was also a cherished social etiquette because, along with the father, the mother and the teacher, the guest was equated with a god in one of the Upaniṣads. But while it was more or less a moral duty in the Upaniṣads, Manu brought it within the realm of the social code by looking upon it as a *yajña*. Besides these social duties, Manu enjoined offerings to beings to propitiate the spirits that presided over the house. Offerings were scattered in various directions to satisfy various spirits and beings. And then, in a corner, the householder had to leave offerings for dogs, outcasts, *cāṇḍālas*, those afflicted with diseases that are punishments of former sins, crows and insects.

Besides giving food to those persons and animals, the householder was supposed to give gifts to the Brahmins, fees to students and at times money for their marriage, alms to an ascetic, medicine to the sick and donations to the poor. He was required to feed the guests, the newly married women, infants, sick persons and pregnant women. 'It is because men of the other three orders are daily supported by the householder with (gifts of) sacred knowledge and food that the order of the householder is the most excellent order.'[8] It was thus the duty of the householder to satisfy not only birds, animals and insects but even persons who belonged to the lowest rung of the community, morally or socially, and those who were incapable of, or disabled from, earning their living. The householder's obligations were thus not confined to the bounds of his family and kin but embraced a wider group of persons and beings.

The oblations that were offered to the gods were said to support both the movable and the immovable creations. Oblations offered in the fire reached the sun, from the sun came rain, from the rain grew food and on food men lived. The sacrifice performed by a householder in the domestic fire differed in its implication and meaning from the Vedic sacrifice. It ceased to be individualistic, i.e. concerned with personal gain to the sacrificer. It became social in its implication, directed as it now was in the interests of humanity. Sacrifices to the sages and to the Piṭrs were obviously social and familial duties from the time of the Brāhmaṇas. The concept of the *pañcamahāyajñas* widened the field of social duties by reorienting the purpose of *yajña* and incorporating new *yajñas* to men and to the *bhūtas* in the older concept of three debts. *Dharma* and *prajā,* the more important aims of marriage, reminded a man how much more he had to live for others than for himself, and that the proper utilization of wealth consisted in distributing a part of it to serve the needs of his fellow beings. In order to clinch this idea of living for others, it was said that he who failed to perform these five sacrifices daily 'lives not, though he breathes'. By the enlargement of his bonds with non-familial persons and the non-human world he was made to realize that even when he lived in the family he was not of it. There was nothing in the life so regulated by onerous duties of which one could be enamoured. *Artha* and *kāma,* material possessions and emotional drives, were divested of their temptations by a conventional process of sublimation in diverting them to social ends.

It was this detachment from the narrow familial ties that was the householder's personal gain for the true realization of his self in the days to follow. This individualistic and personal facet of his life evolved imperceptibly from its social facet, implicitly implied in and explicitly stressed through the duties of this stage. But there was another personal gain in the fulfilment of these social duties which is referred to by Manu (III 71): 'He who neglects not these five great sacrifices, while he is able (to perform them), is not tainted by the sins (committed) in the five places of slaughter, though he constantly lives in the house.' It was a self-purificatory process, and the significance of purification for the Hindus is so categorically brought out in the Dharmasūtras and Manusaṁhitā that the implication of the *mahāyajñas* for the individual himself cannot be ignored.

The expiation of sin which the individual unconsciously committed in the hearth, grinding stones, broom, pestle or mortar by the performance of these five great sacrifices brought a new element into Hindu ethics. It implied that insects and worms killed even unknowingly or unintentionally in the daily routine of life brought upon the individual sin which needed expiation in order to render him pure. This attitude toward all living creatures, however lowly they might be on the biological plane, exemplified a wider range of humanity that had come to be conceived in Hindu ethics. The irony is that while on the one hand individual sympathies came to be extended to embrace all living beings, distinctions between man and man on the grounds of sex or caste assumed, on the other hand, equally wide proportions. A guest was equated with a god and hospitality was held up as a *yajña*. And yet the treatment offered to a guest differed according to the *varṇa* to which he belonged. 'Let him offer (to his guests) seats, rooms, beds, attendance on departure and honour (while they stay) to the most distinguished in the best form, to the lower ones in a lower form, to equals in an equal manner.' 'A Kṣatriya who comes to the house of a Brahmin is not called a guest, nor a Vaiśya, nor a Śūdra, nor a personal friend, nor a relative, nor the teacher. But if a Kṣatriya comes to the house of a Brahmin in the manner of a guest, (the householder) may feed him according to his desire, after the above mentioned Brahmins have eaten. Even a Vaiśya or a Śūdra who has approached his house in the manner of a guest, he may allow to eat with his servants, showing (thereby) his compassionate disposition. Even to others, personal friends and so forth, who have come to his house out of affection, he may give food, garnished (with seasoning) according to his ability (at the same time) with his wife.'[9] This discriminative behaviour toward guests was obviously imposed by the growing pressure of the stratification of the *varṇas*, but it was most painful in its repercussions on the social relations between the different groups. The rules were meant to vindicate the Brahmin's superiority over the Kṣatriyas and the privileged position of the two higher *varṇas* against the other two. But such inhibiting rules of social intercourse minimize human dignity and worth, and consequently the whole concept of hospitality as a *yajña* with its implication of respect for human personality loses much of its significance and glamour.

On entering the third stage of life man continued to perform the five great sacrifices according to his ability, honoured those who came to his hermitage and offered *Agnihotra*, new-moon and full-moon sacrifices in the forest. The stage of a hermit, though alike to that of a householder in point of duties, differed much from it in point of discipline. Study and sacrifice are duties which a man should perform throughout life, and hence they are the pursuits of a hermit too. But the achievement of this stage lies in the discipline that prepares a man finally for the renunciation of familial ties and social relations. This was to be achieved gradually and through a process. Hence he was asked to satisfy his hunger by the roots and fruits available in the forest and in course of time by whatever accidentally fell within his reach and still later by water or air. Similarly, other bodily comforts had to be gradually dispensed with by submitting his body to trials and tribulations. A hermit should expose himself to the heat of the fire in summer, live under the open sky in the monsoon and be dressed in wet clothes in winter. He should look to the deer's skin or the bark of a tree for his clothes and to the earth for his bed. This austerity was meant to cultivate in him indifference to his own body. As he was required to minimize his physical needs and to serve even those few needs in an indifferent manner, he was naturally supposed never to accept charity from others. Besides this discipline of the body which was thought necessary for the sublimation of his instinctive and intellectual life, he was required to widen the scope of his sympathies from the narrow bounds of family and village to humanity at large. The qualities and virtues he needed to cultivate as a hermit were self-restraint, friendliness, charity and a compassionate attitude toward all creatures.[10] It is this wider breadth of humanity that explains why Śakuntalā, left by her parents, was brought up by Kāśyapa, and Sītā, when left alone in the forest, was taken to his hermitage and looked after by Vālmīki. It was for this very purpose that social obligations imposed upon a man as a householder continued to be his obligations in his new 'home'. The presence of the wife in the forest was permitted in order to facilitate the performance of his social duties. The duties of the hermit reminded him that, although he had ceased to be a member of the family (*kula*), of the home (*gṛha*), or of the village community, he had not ceased to be a member of society. His affiliations and associations with the various groups had come to an end, but his obligations and duties to society persisted. His individuality was supposed to find its expression not in mere perfection of himself, i.e. in strict individual sublimation, but in the discipline directed toward his perfection in and through society. The life of a hermit was a life dedicated to the pursuit of the welfare of the community as a disinterested and detached individual. At the same time it was a life of inquiry and searchings, a life devoted to meditation and contemplation, to realize the true being of oneself. The simplicity of life and freedom of the forest provided the proper environment for it.

And with this equipment he was to enter on the last stage, the life of an ascetic. 'Let him go to beg once (a day), let him not be eager to obtain a large quantity (of alms); when no smoke ascends from (the kitchen), when the pestle lies motionless, when the embers have been extinguished, when the people have finished their meals, when the remnants in the dishes have been removed, let the ascetic always go to beg. Let him not be sorry when he obtains nothing, nor rejoice when he obtains (something); let him (accept) so much only as will sustain life. Let him disdain all (food) obtained in consequence of humble salutations, (for) even an ascetic who has attained final liberation is bound by accepting (food given) in consequence of humble salutations.' 'Let him patiently bear hard words, let him not insult anybody, and let him not become anybody's enemy for the sake of this body. Let him not show anger in return against an angry man; let him bless when he is cursed; let him not utter speech devoid of truth.' 'By the restraint of his senses, by the destruction of love and hatred, and by abstention from injuring the creatures, he becomes fit for immortality.' 'By deep meditation let him recognize the subtle nature of the Supreme Soul and its presence in all organisms, both the highest and the lowest. Indifferent to everything, firm of purpose, meditating (and) concentrating his mind on Brahman, delighting in what refers to the Soul, with himself as his only companion he shall live, waiting for his appointed time to come, desiring the bliss of final liberation.'[11] The duties of a Saṁnyāsī in Manusaṁhitā and other works mainly relate to the perfection of his individuality. The Hindu ideal of life is *mokṣa*, and that can be achieved, according to the Gītā, by cultivating detachedness to things worldly. The duties were mainly defined with the purpose of attaining this state of detachedness. In a sense the individual in this stage was mainly concerned with his own realization of spirituality: society was overshadowed. But that did not mean that his social obligations completely ceased.

It is said: 'The Vānaprastha and the Sannyasin are not enjoined to live a selfless life of active social service to set themselves to repair some of the evils in this world, to take up the cross of suffering on behalf of humanity. If they were asked to renounce the family ties and other narrow ties of Grihastha stage in order to feel and act as members of a large family, in order to place themselves at the service of a large circle, where all are brethren, in other words, if the Vānaprastha and Sannyasa stages were but opportunities to transcend narrow loyalties in the interests of higher ones, such a scheme would be really commendable. That, however, is never the idea behind the scheme of āśrama-dharma. . . . It is exactly when men are fit to be the leaders of new thought, capable of advising the younger generation on the basis of their experience in life, that they are required to withdraw into the solitude of the jungle. . . . The āśrama-dharma scheme is thus not only not social in its implications; it even fosters a spirit of indifference to the needs of society by its emphasis on the necessity of "renouncing the world" by undergoing the discipline laid down for the Vānaprastha and the Sannyasa stages.'

We believe, however, that the *saṁnyāsī* was not merely self-centred as is implied by this school of thought. As a matter of fact, he with his wider breadth of humanity was better fitted to guide and inspire society from a higher plane. He did not confine himself to the jungle but visited village after village and must have provided inspiration to society by his own example and preaching. It is true that he was not tied to any village but equally he was not to be away from a village. His behaviour to the persons whom he approached for alms impressed the people to regulate the conduct of their own lives in the direction shown by him. His advice on various topics must have been solicited during his visits to the villages, and he, with his humanity, could not have ignored those who approached him for guidance. The services he rendered to society in this stage of life were not organized or co-ordinated in the way that the social services are now ; but, in view of what the majority of ascetics did individually and the social services organized by some of the ascetic orders, it cannot be said that the *saṁnyāsī* of yore was non-social. The fact that he was respected and honoured as *paramahaṁsa,* and that he was a personage to whom people spontaneously bowed down, shows the tremendous influence he exercised over the mind and life of the people among whom he moved.

3

THE MUSLIM SOCIAL OUTLOOK

ISLAM HAS ITS ROOTS AND BEGINNINGS IN THE TRIBAL SOCIETY OF Arabs of the seventh century of the Christian era. The pre-Islamic Arab society did not recognize the individual as it was centred round a tribe or a kindred. It was the group and not the individual that claimed all the rights. It avenged any injury done to any member of the group or received compensation for it. It inherited property and shared in the compensation for crime. Kinship being recognized on the father's side, all obligations, duties and rights were defined and sanctioned in terms of agnatic kinship. Woman had no recognized place or status in this agnatic Arab society. Besides, marriage was contracted on payment of a bride-price ; a wife was thus bought and therefore looked upon as a kind of chattel. The relation of the sexes was unchastened on this account. A wife could be lent to a guest as a mark of hospitality, for which the Arab was well known. She was handed over to a friend for sexual intimacy when a man went on a journey, or was given over to a stranger when better seed was desired. Examples are also recorded where other men were accepted by a husband as partners in conjugal rights. These modes of behaviour toward women reflect not only the Arab's conception of woman as his property but also his attitude towards sex. Inter-tribal feuds, at times lasting for generations, constituted another typical feature of the early Arab society. Arabs had an unswerving loyalty to their kin and an extreme sense of pride in their ancestry. Poets held an exalted position among the pre-Islamic

Arabs because, on the one hand, they boasted of the deeds of the ancestors of their patrons and, on the other, hurled satires at those of their adversaries. These satires were very poignant and the poets were therefore dreaded; they brought humiliation more than anybody else. The society, with its narrow ties and limited sympathies confined to a kindred or a tribe, naturally evolved values of life in terms of war and woman. The nomadic Arab who eked out his existence in constant resistance to the unfavourable environment of the desert was mainly interested in the present and could not look forward to the future. And the present that engaged his mind and engrossed his attention comprised war, woman and wine. Once his indulgences had been satisfied what use had he for philosophy? Neither was he deeply religious. His religion consisted in offering formal prayers to and performing ceremonies in respect of stones and idols which were regarded as manifestations of the divine from times immemorial. The traditional rites persisted on account of his conservatism and were kept up without any belief in their meaning or significance. He knew the futility of the religion he practised. We are told by Ibn Hisham that on a feast day when people gathered together to go in a procession round an idol, four sceptics who had courage to break with the tradition kept themselves aloof from the ceremony.[1] The scepticism of these four Arabs did not necessarily mean that religious unrest had stirred the Arabs. There were at Makka and a few other places in western Arabia individuals who, being dissatisfied with the prevalent religious concepts, professed a monotheistic belief. These Hanifs perhaps represented a current of the coming stir in matters religious. But as they could not evolve an organization to give expression to it, this movement in the direction of monotheism did not take shape until the Prophet, who had the moral conviction of the Hanifs and the zeal of a reformer in withstanding all persecution, came on the stage. Muhammad, who was equally perturbed by the decadence in the religious life of the Arabs, sought an opportunity of chastening their morals by placing before them new values of life. He tried to widen the ties and sympathies of the tribal Arabs by uniting them into a community of faith. As, in the new community, faith replaced the old bond of blood, Muhammad asked the Arab to forget his kith and kin and help his brother in faith. He further attacked the old tribal structure by preaching to the Arabs to forget the pride and arrogance of ancestry. 'The most honourable of you in the sight of God is the most pious of you.' 'O men, God has taken away from you the arrogance and pride of ancestry of heathen days.' 'An Arab has no other excellence or superiority over a barbarian than that which is secured to him by his God-fearing and righteousness.'[2]

The new community was the community of Islam. Islam means resignation, which implies submission to the will of Allah. Islam postulates only one God, Allah, in place of the old decadent polytheism of the Arabs. God was kind and merciful. He now and then showed the right way to erring humanity through his messengers. Muhammad was the last of these messengers. His mission was to expound to erring humanity the message of Allah, delivered to him through the angel Gabriel. The Will of Allah, so unravelled to humanity and embodied in the Prophet's revelations, was later brought within the compass of the Book, Quran. According to the Quran (II 178), 'Righteousness is not that you will turn your faces to the east and to the west, but righteousness is this: whosoever believeth in God and the Last Day and the Angels and the Book and the Prophets, and whoso, for the love of God, giveth of his wealth unto his kindred and unto orphans and the poor and the traveller and to those who crave alms and for the release of the captives, and whoso observeth prayer and giveth in charity; and those, who, when they have covenants, fulfil their covenants and who are patient in adversity and hardship and in times of violence; they are the righteous and they that fear the law.' It is not merely belief in the Book that Islam enjoins. It demands resignation to this Will, and the realization of one's self is in fulfilling this Will by living in accordance with it, i.e. the Book. Blessedness awaits true Muslims as a reward for their obedience to this Will of Allah. Punishment awaits those who do not believe in His message, and ignore His Will. Man will be judged for his deeds on the Last Day—one does not know exactly when it will come—when all shall have to appear before Allah. Their deeds will then be judged and those who are found wanting shall remain eternally in hell tormented by flames. The pious, on the other hand, shall have 'abodes appointed them in well-watered, shady gardens, with fruit-trees richly laden, with luxurious couches upon which they may lie and enjoy the delicious food, sung by the ministrants of the paradise. They may also freely indulge in sparkling wine that does not intoxicate, and in intercourse with women, whose youth and virginity do not fade.'[3]

It may be contended that even while the Book is the primary source of Muslim institutions and the supreme authority for the Muslim way of life, Muslim institutions have not remained unaffected and uninfluenced by conditions in different regions during the centuries of their existence. There is 'a principle of movement' in Islam, and Muslim institutions and the Muslim way of life have changed in terms of space and time. Let us try to understand the nature and scope of this 'principle of movement' in Islam.

In the absence of a clear and categorical answer from the Book, the absolute word of God, the Prophet's decisions—his precepts, his acts and practices, negative as well as positive—were regarded as decisive. This was quite in keeping with Arab temper and tradition. 'An inherent conservatism canonized the *sunna*—custom, usage—of the ancients; any stepping aside from it was a *bida*, innovation, and had to win its way by its merits, in the teeth of strong prejudice.' What Islam did was to change the nature of *sunna*; the usage of Muhammad replaced the usage of the ancients. On the death of the Prophet, when the community was left to its own resources to decide the question which it was called upon to solve, the deliberations of the immediate Companions of the Prophet, *ijma*, supplied the necessary guidance. These decisions were reached in the light of the usage of al-Madina which was utilized by the Prophet in dispensing justice. These deductions of the learned were considered infallible and were upheld by various traditions attributed to the Prophet. 'My followers will never agree upon what is wrong.' 'It is incumbent upon you to follow the numerous body.' 'Obey God, and obey the Prophet and those amongst you who have authority.'[4]

But soon after the death of the Prophet the wave of conquest, which in the course of 56 years of Hijra brought within the Islamic empire Damascus, Syria, Mesopotamia, Persia, Herat, Samarqand and Egypt, created in its turn many social and legal conditions and problems for which neither the Book nor the *sunna* was found to be an adequate guide. The administrators had to apply their own reason and common sense, and this judicial opinion, *ray*, served as a channel through which local usage in different parts of the empire came to be integrated into the Muslim Law. In order to uphold *ray*, arbitrary human judgment, as a valid source of law, tradition was traced to show that the Prophet had accorded it recognition. When the Prophet sent his Companion, Muazz, as governor of a province, the Prophet asked him how he would dispense justice. And the reply was that he would be guided by the Scripture of God and in its absence by the tradition of the Messenger of God. When both failed to guide him he would interpret the Law in the light of his reason. Thereupon the Prophet said: 'Praised be God who has favoured the messenger of His Messenger with what His Messenger is willing to approve.' Ostrorog writes that this tradition 'expresses most clearly, as a cardinal principle, the right of direct examination and free interpretation of scripture and tradition. That liberal principle remained for a long time a fundamental tenet in the creed of Islam.'[5]

That the right of interpretation extended as widely as Ostrorog would like us to believe is difficult to accept. As a matter of fact the use of judicial opinion was seriously questioned and its scope precisely defined in the ninth century A.D. Under the Abbasids the sources of Muslim Law were discussed, and the four schools founded in this period defined the scope of legal fiction and equity in the development of Muslim Law. Abu Hanifa (A.D. 699–766) recognized *qiyas*, reasoning by analogy, as a source of Law when the Book did not provide a categorical solution to meet the new conditions. He seems to have given greater importance to analogical deductions than to the traditions of the Prophet. 'He could hardly forsake a plain *res judicata* of Muhammad and follow his otherwise unsupported views, but he might choose to do so if he could base it on analogy from the Quran.' But he was not satisfied with this amount of freedom and developed a new principle of even greater freedom. When the analogical deductions failed, in the opinion of the jurist, to harmonize with the habits and the usage of the people to whom they came to be applied, he was at liberty to accept instead a rule which, he thought, would better advance the welfare of man and the interest of justice. This doctrine of juristic preference, *istihasan*, enunciated by Abu Hanifa, allowed some latitude to the governors of new provinces in respecting the usage and customs of new converts to Islam to the extent they thought it necessary in striking deep the roots of the new empire. This attempt to integrate into the Muslim community the conquered population without violating the social implications of Islam upheld the principle of equity as a source of Law. But the desirability of this innovation was strongly disputed, though its necessity could not be completely denied. Malik ibn Anas (A.D. 713-95) once again stressed the Quran, *sunna* and *ijma* as the main sources of Law. When he had to go beyond these primary sources he looked to the local usage of al-Madina wherefrom he had hailed. He had to give his own decisions at times, 'but for him it was not so much a primary principle as a means of escape'. Further, this juristic preference was allowed to set aside the analogical deductions not because the jurist thought them injurious or harmful but because they were against public advantage, *istislah*. Ash-Shafií (A.D. 767-820) was against individual opinion, *istihasan*, as well as *istislah*. He had great reverence for tradition. He is reported to have said, 'If you ever find a tradition from the Prophet saying one thing and a decision from me saying another, follow the tradition.' In order to accommodate usage and customs in different parts of the Islamic empire as widely as possible, he fell back on the principle of agreement, *ijma*. But he put it upon a broader basis and granted it greater weight as a root of Law. According to him, *ijma* meant consensus of opinion among the learned Muslims. In other words, the decisions which the body of learned Muslims in different parts of the land and in different periods in history agreed upon were valid for those areas and for those periods. He thus provided a 'principle of movement' which helped to adjust the Muslim Law to varying conditions of space and time. He also gave it a greater weight as a source of Law by quoting a tradition of the Prophet. 'My people will never agree in error.' He did recognize *qiya* as a root of Law, but only when the Quran, *sunna* and *ijma* failed to meet the situation. Ahmad ibn Hanbal (A.D. 780-855) once again minimized the role of *ijma* and *qiya* in the interpretation of Law and stressed the Quran and *sunna* as the primary roots of Law. But he had the smallest following. It is quite clear from this short sketch of Islamic jurisprudence that contact with non-Muslim peoples, economic and political conditions of the Islamic empire, ancient custom, alien ideas and usages—all have in a certain measure influenced the Muslim Law in its evolution.[6]

Even though the principle of *ijma*, broadened by Ash-Shafií, has provided the Muslim community with an expedient for adapting its institutions and beliefs to varied and novel situations in a changing world, its social legislation has not moved with the times in India for two reasons. The Personal Law of the Muslims, i.e. the rules relating to marriage, divorce and inheritance, is categorically laid down in the Quran. Any change in these rules amounts to abrogating the Quranic injunctions and is hence regarded as apostasy. The hold of these specific rules is so great that 'where an order is expressed clearly in general terms, the import of that order may not be restricted to definite portions of time or space, even when it is on record that the text was revealed in special circumstances, authorizing a reasonable belief that the order so revealed referred to those special circumstances, and not all possible conditions of time and space'.[7]

Educated Muslims have come to realize that the social legislation of Islam is in need of some change, firstly because the Law that was given for the desert nomads cannot serve the needs of an agricultural community or of an industrial civilization, and, secondly, the contact with Western civilization has provided a new pattern and ideal of marriage relationships. But the principle of *ijtihad*, reinterpretation of Quranic facts to bring social legislation into line with their present aspirations, is denied to the modernists. According to the orthodox opinion, the Doctors of the four Schools (*mujtahidun mutlaq*) had done their best to interpret the Quran, and what was left undone by them was completed by their followers *mujtahidun fi-l-madhahib* and *mujtahidun bil-fatwa.* The gate of *ijtihad* was thus closed by the end of the eleventh century. Though *ijtihad* continued to be exercised after this period, it was, as is evident from Ibn-i-Taimiyya in the thirteenth century and Muhammad Ibn-i-Abdul Wahhab in the eighteenth, for the reorientation of Islamic belief and practice according to Quranic injunctions and the traditions of the Prophet.[8] This explains why, in spite of conviction on the part of Muslim reformers in every part of the world—Iraq, Tunisia, Egypt—that Quranic injunctions in respect of women need some revision, reform in this direction is always met with stubborn resistance. The experience of the Ministry of Social Affairs in Egypt sheds much light on this. 'Although the proposals put forward by the Ministry amounted to no more than a very moderate instalment of the reforms desired by educated opinion, they called out an immediate remonstrance from representatives of the Azhar point of view that they were contrary to the *shariat* and that the Ministry would be more worthily employed in turning its attention to horse-racing, betting, and other social evils denounced by the Koran and by Muslim ethics.'[9]

The modernists therefore employ another device. They go back to the Quran to show that some of the Muslim practices are against the spirit of Quranic teaching and they thus endeavour to impress upon the community that their mission is to present the Quranic ideal in all its purity and loftiness. 'The primary function of the modernist apologetic . . . is to restore faith in Islam among doubting Muslims by demonstrating the supreme excellence of their religion. Its second function is to persuade the "old-fashioned" Muslims that they, by their social conservatism and their stand upon the letter of the Law, are sinning against light.'[10]

Iqbal recognizes the validity of *ijtihad,* reinterpretation of the foundational legal principles in the light of one's own experience and the altered conditions of modern life. At the same time he observes: 'We heartily welcome the liberal movement in modern Islam; but it must also be admitted that the appearance of liberal ideas in Islam constitutes also the most critical moment in the history of Islam. Liberalism has a tendency to act as a force of disintegration, and the race-idea which appears to be working in modern Islam with greater force than ever may ultimately wipe off the broad human outlook which Muslim people have imbibed from their religion. Further, our religious and political reformers in their zeal for liberalism may overstep the proper limits of reform in the absence of a check on their youthful fervour. We are today passing through a period similar to that of the Protestant revolution in Europe, and the lesson which the rise and the outcome of Luther's movement teaches should not be lost on us.' And with the same logic he meets the demand for equality of man and woman in marriage and property rights. 'I do not know whether the awakening of women in Turkey has created demands which cannot be met without a fresh interpretation of foundational principles.' To justify his social conservatism he further argues: 'Marriage, according to Mohammedan Law, is a civil contract. The wife at the time of marriage is at liberty to get the husband's power of divorce delegated to her on stated conditions, and thus secure equality of divorce with her husband. The reform suggested by the poet relating to the rule of inheritance is based on a misunderstanding. From the inequality of their legal shares it must not be supposed that the rule assumes the superiority of males over females. Such an assumption would be contrary to the spirit of Islam.' And he concludes: 'Modern society with its bitter class-struggle ought to set us thinking; and if we study our laws in reference to the impending revolution in modern economic life, we are likely to discover, in the foundational principles, hitherto unrevealed aspects which we cannot work out without a renewed faith in the wisdom of the principles.'[11] Obviously Iqbal hesitates to innovate in the interest of the integration of the community and pleads for being bound by the 'silver chain', the statutes of Muhammad.

We have so far seen how the principle of *ijma*, though recognized in theory, was stultified in application. There is yet another aspect of social conservatism in the life of Indian Muslims to which attention may now be drawn.

In the middle of the eighteenth century Muhammad Ibn

Abd al-Wahhab, disgusted with the corruption the Turks had brought in Islamic morals[12] and the contamination of Islamic monotheism by the infiltration of the pantheistic notions of the Suffis and the worship of saints, organized a revolt for the purification of Islam. This movement, known as the Wahhabi movement after his name, soon died out and failed to catch the Muslim mind because of its extravagances and excesses in achieving its purpose. The movement has, however, tremendous significance for the student of Muslim history and culture. As Professor H. A. R. Gibb points out, it has had two important repercussions. 'The Wahhabi emphasis on pure doctrine and the reassertion of Koranic orthodoxy far and wide—not in the sense of preaching and popularizing the narrow tenets of Wahhabism but in the sense of recalling the great body of Muslims, learned and unlearned alike, to a fuller understanding of what Muslim faith demands and of the dangers with which it was menaced'—is its foremost and most enduring effect. Secondly, it fostered 'opposition to European control of Muslim lands and their struggle against the pervasive influences of European culture and material civilization, with a hostility sharpened by bitterness at Christian missionary activity and the competition between Christianity and Islam in India, Indonesia, and Africa.'[13]

A similar movement, indigenous in character but fanned by the Arabian Wahhabism, stirred the Indian Muslims in the early part of the nineteenth century. Most of the Muslims in India have affinity more with the Hindus than with their Islamic brethren in Arabia or other parts of the world. These Hindu converts to Islam had not given up their original religious beliefs and social practices while professing Islam. The result was that their religious life bristled with Hindu practices and beliefs. Haji Shariat-ullah of Faridpur organized a religious reform in Islam with an agrarian bias in eastern Bengal. Saiyid Ahmed of Rae Bareli (1782-1831) started a religious reform movement among the Rohillas of North India, but developed it politically on a nation-wide scale. It aimed at freeing Islam from 'Hindu corruptions' and launching holy war, *jihad*, to make India, that had become *Dar-ul-Harb*, *Dar-ul-Islam*. 'They covered India with their emissaries, and brought about one of the greatest religious revivals that has ever taken place. . . . Everywhere they stirred the Muhammadan population to its depths.' It was primarily a political and agrarian movement directed against British rule, which was slowly but steadily replacing the Muslim power in India, and the Hindu landlords of Bengal. But in the heat and passion generated by it, it assumed an anti-Hindu tinge. Hunter writes: 'Incessant outrages followed, the general proceeding being to kill a cow in a Hindu village, and, if the people resisted, to murder or expel the inhabitants, plunder their houses, and burn them down.'[14] The success of the movement was largely due to the fact that Ahmed Sar Hindi in the seventeenth century and Shah Wali Ullah in the eighteenth had created very congenial soil for the reassertion and reorientation of Islam which had suffered at the hands of Akbar.[15]

On the death of Saiyid Ahmad in the *jihad* against the Sikhs in 1831, his disciple Karmat Ali shed the programme of *jihad* and devoted himself with a consuming passion to the 'task of combating the Hindu customs and superstitions which had crept into the practice of Islam in eastern Bengal'. Saiyid Ahmad's achievements can be evaluated by two facts. Firstly, there was scarcely a village in Bengal that did not contain some of his disciples when he died. Secondly, the orthodox sect Ahl-i-Hadith, which regarded the Quran and *sunna* as the only authoritative sources of Islamic life and law, though numerically not a strong group, was vociferous and had an organized propaganda machinery. Its programme was naturally 'to eradicate customs that may be traced either to innovation or to Hindu or other un-Islamic origin'.

In about 1879 Mirza Ghulam Ahmed started another movement in the Punjab, known as the Ahmadiyah movement, which 'repudiated the abolition of *purdah*, and staunchly defended the Islamic Law of divorce and polygamy, "spurging any attempt with Islam to adapt Muhammad's teaching and practice to present-day customs in Christian land"'.[16]

With Sir Sayed Ahmad Khan (1817-98), the 'Back to the Quran' movement assumed a new form. Realizing the backwardness of the Muslims in English education and their consequent economic backwardness and non-participation in the administrative life of the country, he endeavoured to quicken Muslim support for English education, and for British rather than National Congress policies. To give shape to his ideals he started the Muhammadan Anglo-Oriental College at Aligarh to impart to Muslim students knowledge and appreciation of their faith through rationalizing processes of investigation. Sir Sayed Ahmad held views on the interpretation of the Quran which were broad-based and rational but unacceptable even to his best friends. He was regarded as an unbeliever, or worse still a Kafir, though he was an ardent champion of Islam and endeavoured to defend it in the modern world. Naturally the Aligarh College could not carry on the ideal of its founder. 'Religious instructors were appointed, to teach on the old lines, which did not really appeal to the students but which appealed to their parents and to the community generally.' Separate worship and separate religious instruction were provided for Shias and Sunnis. 'Separate theological professors were appointed, and religious instruction was not, and has not yet been, distinguished from theology.'[17] This little digression has been necessary in illustrating the course of rationalism that Muslim thinkers have taken.

The Muslim intelligentsia from the days of Sir Sayed Ahmad has been imbued with consuming passion for the defence of Islam. This finds expression in two ways. On the one hand, Islam has been presented as a religion of which every Muslim should be proud. Its other aspect is to show that Islam is not opposed to progressive ideas; it is a liberal, rational and progressive religion. This new ferment of Islamic regeneration fanned Indian Muslims' Islamic consciousness and pride to a feverish pitch. The boycott of the Indian National Congress which was initially inspired by political expediency came to be regarded by the third decade of the present century as culturally desirable and even inevitable. From our point of view the implication of this movement can be better summed up in the words of Wilfred Smith: 'They have written glowing and laudatory accounts of the brighter aspects of Islamic history to parade its liberalism; but have produced almost no liberal scholarship to study that history impartially. They have quoted the Quran and the Traditions voluminously to prove that Islam is rational, but have never subjected the Quran and the Traditions to rational criticism. They have drawn a picture of their Prophet, tolerant and teaching tolerance; and have murdered someone who drew another picture. Besides, now that they have such a fine religion and fine Prophet themselves, they have increasing contempt for other religious systems, in which it is not difficult for them to pick faults.' The net result is that 'by their apologetic which exaggerates, on the one hand, the social virtues of the Islamic system in the past and, on the other hand, the social evil prevalent in Western societies, they have strengthened the opposition of conservative opinion to their own case'.[18]

The culmination of this neo-Wahhabism, if we may so call it, we find in the Muslim Personal Law (*shariat*) Application Act of 1937. It lays down that 'notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females including personal property, inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage including *talaq, ila, zihar, lian, khula* and *mubaraat*, maintenance, dower, guardianship, gifts, trust and trust properties, and *wakfs* (other than charities and charitable institutions and charitable and religious endowments), the rule of decision in cases where the parties are Muslims shall be the Mahommedan Personal Law (*shariat*)'. Clearly it has been attempted to integrate all varieties and diversities found among the customs of Indian Muslims into a uniform pattern that proceeds from the social legislation of the Quran.

We have concentrated our attention here on the development of Islam in India. Even beyond the frontier of India the conditions do not appear to be in any way different. The Pan-Islamic movement of Jamal ad-Din al-Afghani which stressed that 'the Muslim state should stand out as the political expression and the vehicle of sound Koranic orthodoxy', the fundamentalist School, Salafiya, in Egypt, which in 'its social programme took on increasingly the character of a rationalizing Puritan movement', the dominance of Mullah in the new state of Pakistan resulting in violent demonstrations against the

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Ahmadiyas (though Sir Mohammad Zafarullah of the Ahmadiya sect was the most staunch supporter of Pakistan and the most powerful advocate of its claims), the attempt not so long ago in the Turkey of Kamal Atta Turk to revive Khilafat —all are patent expressions of the role of Islam in world politics and religion and the place of the Quran and the Prophet in Muslim life. It remains to be seen how far the sentiments of nationality and the implications of democracy, which at present appear to be more favourably viewed than communism, render possible the evolution of Muslim society on a rationalistic and equitable principle.

4

POLYANDRY

POLYANDRY IS A FORM OF UNION IN WHICH A WOMAN HAS MORE than one husband at a time, or in which brothers share a wife or wives in common. This form of union was once practised by the peoples of the cis-Himalayan tract in northern India and among some tribes of the pre-Dravidian or Dravidian groups in South India. It is supposed to have once been a trait of the Brahmanic culture from the classic instance of Draupadī having the five Pāṇḍavas of Mahābhārata fame as her husbands and some vague allusions to polyandry in the Vedic mythology. Polyandry among these different groups and tribes presents different patterns and has different origins and developments.

The conclusion that polyandry is a trait of Brahmanic culture begs the question. Draupadī's case does not appear to be as clear evidence of it as is generally supposed. According to the Mahābhārata, the five Pāṇḍava brothers, after the death of Pāṇḍu, found themselves at odds with their cousins, the Kauravas. The long drawn-out enmity between them compelled the Pāṇḍavas to stay hidden after their escape from the lac palace. During their exile they lived on alms which they collected and shared with their mother. One day the sage Vyāsa came and informed them that King Drupada of Pañcāla had invited kings to make their claims for the hand of his daughter Draupadī. The king had pledged her hand to the hero who successfully performed the feat of piercing a fish suspended on a post by taking his aim looking at its shadow in the water. Vyāsa further asked them to attend the function in the guise of Brahmins. Arjuna, the third among the Pāṇḍavas, successfully performed the feat and became the suitor of Draupadī. The Pāṇḍava brothers, on their return home with Draupadī, found the door closed. They merrily asked their mother to open the door and receive them who had returned with pretty alms that day. Not knowing what alms they referred to, she asked them from behind the door to divide it amongst themselves. Draupadī thus became the common wife of the five Pāṇḍavas. When Kuntī saw Draupadī instead of alms she realized the blunder she had committed and was taken aback.

Though Draupadī thus became the wife of the five Pāṇḍavas, her marriage raised a storm of protests from her relatives. Her father could not think of his daughter being the wife of five brothers, and he denounced it as irreligious, being against the Vedas and usages. His son attacked it with full vehemence and asked Yudhiṣṭhira to explain how he as an elder brother could marry the wife of his younger brother. The epic-writer met the storm by an explanation given by Yudhiṣṭhira and the intervention of the great sage Vyāsa.

Vyāsa judged the marriage to be against usage and, as such, against *dharma*. He then sought to satisfy King Drupada and his son by persuading them to accept it as pre-ordained. In a long narrative he showed the five Pāṇḍavas to be the five Indras, who by the curse of the god Śiva for their haughtiness were born as men on earth. In order to console them in this predicament, the god, through mercy, asked the goddess Śrī or Lakṣmī to be their wife on earth ; and accordingly she was born as Draupadī. Then Vyāsa, through his ascetic powers, endowed Drupada with divine eyes, and the latter saw the five Pāṇḍavas and Draupadī in their heavenly forms. He was thereupon satisfied with the marriage he had so strongly detested. Vyāsa also narrated how Draupadī in her former life had propitiated the god Śiva and had asked him five times to give her a good husband. Śiva, therefore, promised her five husbands.

Yudhiṣṭhira, on his part, justified the marriage on three grounds. He illustrated the marriage of Jaṭilā with seven Ṛṣis, and Vārkṣī with ten brothers called Pracetas as precedents for the practice the Pāṇḍavas had followed. He further justified it as righteous because it was brought about in obedience to a precept of the mother. And lastly he found justification for it in the tradition of his family. 'We follow the path which has been trodden by (our) ancestors in succession.'

It is elsewhere said that Nārada advised the Pāṇḍavas to accept Draupadī as the legal wife of all and to prevent dissension among the brothers. He strengthened his argument by quoting the narrative of two demon brothers, Sunda and Upasunda of yore, who had fought for a woman and had died. Yudhiṣṭhira also admitted that they would possess her in common rather than that a dissension should come about among the brothers through her, as all the five were inflamed with love for Draupadī. Polyandry was thus a matter of convenience or expediency.[1]

It is clear that Vyāsa and Yudhiṣṭhira sought their justifications on entirely different grounds and with varying degrees of conviction. Vyāsa's intervention was out of place ; his reasoning was unconvincing as he offered two different explanations which had no common point except the bidding of the god Śiva as the cause of this tragic situation. Winternitz, who analysed Vyāsa's explanations, very cogently concluded that the compiler of the Mahābhārata had drawn upon various Puranic episodes in which attempts had been made to justify the polyandry of Draupadī, and hence his narrative was full of inconsistencies and incongruities and therefore failed to carry any conviction.[2] The only thing that Vyāsa's explanations proved was that long before the Mahābhārata was reduced to its present form the Brahmin writers had found the tradition of polyandry very irksome and had attempted to explain it away. The compiler of the Mahābhārata did it with a vengeance, gloating over the contradictions these patchings of different stories involved.

Let us now examine the propriety of Yudhiṣṭhira's justification. We are told that the Pāṇḍavas were informed of Draupadī's *svayaṁvara* by Vyāsa and were advised by him to attend it as she was pre-ordained to be the wife of five brothers. In the context of what follows this seems to have been an addition made later when an attempt was being made to explain the tradition away as a divinely ordained exception.

The precedents given by Yudhiṣṭhira are not well known in Hindu mythology and their historical character has never been definitely asserted. To seek validity for the practice of polyandry in the fulfilment of the mother's word is unlikely to be convincing, because, in a patrilineal community, the mother's word is not sufficiently decisive to sanction what is not socially approved. Polyandry was irreligious, and it is unlikely that recourse would have been made to it on the strength of the mother's casual and unknowing order. And, in the present version of the story, Kuntī, when she became aware of the blunder she had unconsciously committed, was taken aback, and nervously asked Yudhiṣṭhira to show her how Draupadī might not have to do what was not *dharma*. Kuntī's request is quite intelligible in the present version where the practice is definitely shown to have been against public opinion. But even in the earlier version Kuntī could not have approved of it with equanimity unless it had been in the *mores* of the community to which the Pāṇḍavas belonged. And that takes us to the third dictum of Yudhiṣṭhira: 'We follow the path of the ancients.' If it were merely the word of the mother that had decided Draupadī's marriage with the Pāṇḍavas to be irrevocable, Yudhiṣṭhira need not have justified it again as a tradition of his family or tribe.

The question that naturally follows is whether Yudhiṣṭhira was referring to the old Brahmanic tradition in favour of polyandry or to a tradition outside the Brahmanic circle. Some indologists suggest that the Pāṇḍavas represented a non-Aryan tribe, probably because polyandry is still found among the non-Aryan tribes. Whether the Pāṇḍavas were non-Aryan or Aryan cannot be definitely said; but three observations can be categorically made. Disapproval of polyandry has prevailed in the Brahmanic tradition from very early times. Protests against polyandry came from Drupada, the king of Pañcāla and Karṇa, a representative of the Kauravas and an arch-enemy of the Pāṇḍavas and their allies. Lastly, Pāṇḍu had a matrimonial alliance with the king of Madra, a land known to the epic-writer for matrilineal descent and loose sex relations.

Polyandry seems to have been discredited as a cultural trait from the time of the Aitareya Brāhmaṇa (800 B.C.), where it was said that a man could have many wives but a woman could have only one husband. The Mahābhārata (I 160, 36) reiterates this tradition. 'To have many wives is no *adharma* on the part of men, but to violate the duty owed to the first husband would be a great *adharma* in the case of a woman.' That this was not merely a pious wish of the Brahmins but had become a tradition, is obvious by the fact, as Muir puts it, that 'the practice must have so far fallen into disuse or have become discredited, as to require that special divine authority should be shown in order to show its occurrence among respectable persons conceivable even in earlier ages'[3]. In the circumstances, the epic-writer would not have referred to it in this final redaction of the Mahābhārata unless the tradition was so strong that he could not completely tamper with it or eradicate it. The polyandry of the Pāṇḍavas appears to be such an important cultural trait of that tribe that the Brahmin writers could not but help record it. They hence tried to explain it away as preordained in order to make it acceptable to the community to which the Mahābhārata was addressed.

The other objection against Draupadī's marriage, raised by her brother, was that Yudhiṣṭhira, as an elder brother, should not have married the wife of his younger brother, Arjuna. The argument was not much against polyandry as a trait as it was against a particular form of it. As a matter of fact, in the family history of the Pāṇḍavas, as given in the Mahābhārata, the elder brother's approach to the widow of his younger brother was not unknown. On the death of king Santanu, Vicitravīrya, his son by Satyavatī, became his heir in preference to his elder brother, Bhīṣma, who had willingly forfeited his claim in favour of his stepbrother in order to bring about his father's marriage with Satyavatī. Vicitravīrya died childless, and the line of Śantanu was threatened with extinction. Satyavatī approached Bhīṣma, entreating him to marry the widows of his younger brother and continue the line of Śantanu, following the precepts of the sacred books. Bhīṣma did not find anything unusual about the offer; only he could not comply with it because his vow of lifelong celibacy would not allow him. Satyavatī persuaded him to set aside his vow as his duty in adversity, *āpaddharma* ; but Bhīṣma would not yield. He rather suggested that the righteous way by which the line of Śantanu might continue would be to invite, as the well-known Kṣatriya families had done, the services of the Brahmin sages for the procreation of children. According to the epic, the great sage Vyāsa was then invited to beget children on the widows of Vicitravīrya. It is clear from this account (which is preserved even in the final redaction of the Mahābhārata) that Bhīṣma did not find anything unusual in the elder brother's approach to his younger brother's widows. This was not condemned as being against *dharma.* That the epic-writer had nothing to say against this pattern of behaviour is confirmed by another fact, namely that Vyāsa, who, as a great sage worthy of the family of Kurus, procreated heirs to Śantanu, is represented elsewhere in the Mahābhārata as an elder brother of Vicitravīrya. He was born of Satyavatī by the sage Parāśara in her maidenhood. Whether Bhīṣma himself married the widows and begot children, as Winternitz and Holtzman believe, or whether the great sage Vyāsa procreated children, as the epic would have us believe, the elder brother's approach to his younger brother's wife or widow is admitted. Much more suggestive is the reproach of Śiśupāla directed against Bhīṣma: 'With his two wives children have been begotten by another through a proceeding which good men do not allow and yet he calmly looked on.'[4] The sting is self-evident. In the normal course Bhīṣma should have begotten the children. His advice to invite the service of a Brahmin was against the current norms. Vyāsa's role in the procreation as a sage must, therefore, be looked upon as a later version of the time when the Brahmins pretended to have been invited by eminent royal families to favour them with illustrious children. In view of this the protest of Draupadī's brother is out of place. And yet, if it was raised, it only meant that the episode was found contrary to the new standard of sex morality that was evolving or had already been evolved by the time of the final redaction of the Mahābhārata.

Intimacy between a woman and her brother-in-law was known to the Vedic Aryans. In the funeral hymn in the

Ṛgveda, the widow who lay on the pyre by the side of her dead husband was asked to rise and come to the world of the living: 'He by whose side you lie is lifeless. Come, this your wifehood of the husband who took thy hand and wooed thee has (now) been fulfilled.' And in the Atharvaveda it is added, 'Come to him who grasps thy hand, thy wooer (*didhiṣu*); thou hast now entered into the relation of wife to husband.' In Bṛhaddevatā the younger brother is said to prohibit the widow from ascending the pyre. According to Āśvalāyana, her brother-in-law, being a representative of her husband, or a pupil (of her husband), or some aged servant, should raise her. In another passage of the Ṛgveda, the simile runs, 'as a widow invites her brother-in-law to her bed'. Yāskācārya in his comment on this verse explains *devara* as a second husband.[5] The word *devara* may be a derivation from the word *div* to play, thus meaning a person who could legitimately dally with his brother's wife or widow. Though it cannot be definitely said whether the brother-in-law married the widow or merely had conjugal right
in her, the fact of intimacy between the two is clearly intended

The only question is whether the brother-in-law was an
brother or only the younger brother of the husband. The wor
devara is used in the general sense of a brother-in-law withou
the distinction of elder or younger in Manusaṁhitā and eve
by the author of Amarakośa. Even at a very late perio
Vijñāneśvara recorded a tradition that 'if a husband die
before marriage the betrothed girl may be given to an elder o
younger brother in marriage'. At the same time we fin
conjugal intimacy being restricted to a woman and her younge
brothers-in-law in the post-Vedic literature. In the Rāmāyaṇ
after the death of Valī, Sugrīva married his widow, Tār
Bibhīṣaṇa likewise married the widow of his elder brothe
Rāvaṇa. When Lakṣmaṇa was hesitant to leave Sītā alone i
the forest and go to the help of his elder brother at her biddin
she taunted him saying, 'You wish to see Rāma dead that yo
may get me for your wife.' When Bṛhaspati approache
Mamatā, the wife of his elder brother Utathya, for embrac
she entreated him not to do it as she was pregnant. But whe
he insisted he was allowed his privilege. While in these illustr
tions from the epics, intimacy is confined to a younger brothe

in-law only, Kauṭilya would not restrict a widow's marriage to her younger brother-in-law. 'The wife of one who has long gone abroad, or who has become a recluse or who is dead should wait for seven menstrual periods and for a year if she has a child already. Thereafter she may marry the full brother of her husband. If there may be many brothers she should marry one who is near in age (to the first husband), who is virtuous, capable of maintaining her or who is the youngest or unmarried. If such a brother is not available she may marry a non-uterine brother, a *sapiṇḍa* who is a member of the family.'[6]

These illustrations and regulations in respect of intimacy between a woman and her brother-in-law in post-Vedic literature and traditions refer to different situations and to different localities. They mainly relate to marriage with the widow of the elder brother on the latter's demise. There again, the illustrations refer to such localities as Ayodhyā, Kiṣkindhā and Laṅkā. As for Kauṭilya, it must be stated that he records patterns and traditions which are not in full conformity with the Brahmanic pattern recorded in the contemporary literature, though he cannot be placed as a non-Brahmanic writer. This may perhaps be due to the fact that he, being mainly interested in political and economic problems, was not greatly concerned in his book with lending his support to the new morality propagated by the Brahmins, but recorded the traditions current in his time. The only case of conjugal intimacy when the husband is living, is that of Bṛhaspati and Mamatā.

The attitude of the writers of the Dharmasūtras and Manusaṁhitā can be defined from two trends. The elder brother is said to be a *guru,* person worthy of reverence. In a patriarchal family he becomes the head of the family and this status is naturally accorded to him. The contemporary Hindu family was not patriarchal: but the Hindu legislators seemed to be aware of the patriarchal tradition, and from the time of the Brāhmaṇas the eldest son has been known to have special privileges. There is nothing to be surprised at, therefore, in the status of *guru* being accorded to him: but it has its bearings on sex intimacies. The younger brother's wife becomes as good as a daughter-in-law and the elder brother's wife as good as a mother. That these relationships were envisaged as arising out of the status of the eldest brother is clear from Manusaṁhitā. Here, then, is the first check on the intimacy of a person with his younger brother's wife or widow.

The second trend is more explicit and categorical in its inhibition of this intimacy. Āpastamba preached fidelity to the husband: '(A husband) shall not hand over his (wife) who occupies the position of a *dharmapatnī* to another in order to get children for himself. They declare that a bride is given to the family (*kula*). That is forbidden on account of the weakness of (men's) senses. The hand (is considered to be) that of a stranger. If the (marriage vow) is transgressed both (husband and wife) certainly go to hell. The reward resulting from observing the restrictions of the law is preferable to offspring obtained in this manner.' Āpastamba clearly referred to the intimacy between a woman and her brother-in-law and thereby suggested his familiarity with that pattern of behaviour. But the way he referred to it—as the opinion of some—clearly indicated his disapproval of it which he sought to confirm by preaching the ideal of woman's fidelity to the husband. Other Sūtra-writers, instead of categorically forbidding any intimacy between the two, restricted it to a particular situation and defined its expression in a particular manner. When a man died childless, the widow might be allowed to procure a son for the deceased through her brother-in-law or a near relative. The marital relations between the two were temporary and restricted. They lasted till the signs of pregnancy were visible or at the most, according to some, till two children were born. No amorous dallying with the woman or any frivolity was allowed. If these restrictions were not properly observed, the son begotten did not get the share of his father in the family property. Under this new form, known as *niyoga*, privileged intimacy was denied and conjugal rights were sanctioned only to secure an heir to the deceased. That this conjugal relation was allowed only for the continuance of the line is confirmed by the fact that a widow who was either barren, past child-bearing or very aged was not allowed to resort to *niyoga*. Likewise a person who was sickly was not commissioned to beget in *niyoga*.[7]

These proscriptive rules of marital behaviour restricted conjugal rights, and it was attempted to minimize them further by giving the widow full freedom to resort to *niyoga* or to live a chaste life. The freedom given to the woman to submit to or reject appointment (*niyoga*), should not be misunderstood. Widow remarriage seems to have been fairly well known and accepted as normal from the Vedic period onwards. The son of a widow, *paunarbhava* as he was called, stood next to a *kṣetraja* or a *putrikā* according to Vasiṣṭha, Śaṅkha, Yama, Hārīta and Viṣṇu among the Sūtra- and Smṛti-writers. *Kṣetraja* came into existence only in the Dharmasūtras when the privileged intimacy of a person with his brother's wife or widow was narrowed down as aforesaid. *Putrikā*, too, came into prominence in the Dharmasūtra period, with the increasing importance of *śrāddha* and the consequent need for a son to give funeral offerings to save his ancestors from going to hell. Evidently, then, *paunarbhava* was not much inferior to a legitimate son, a fact which clearly indicates that a widow usually remarried, most often to her brother-in-law, or in his absence to any other member of the family (*kula*).[8]

But the new morality contemplated fidelity on the part of the woman, and this implied restriction on widow remarriage and the minimization of privileged intimacy with the brother-in-law. And the Dharmasūtra-writers set themselves to implement both these changes by reinforcing new ideals and inhibitions. The status of the son of a widow was lowered in the Dharmasūtras of Baudhāyana and Gautama and in Manusaṁhitā. The lowering of his rank meant a definite change in his status in the family. While formerly he was *bandhudāyāda*, that is both a relative and an heir, or heir to the adoptive father as well as his collaterals, he was now *abandhudāyāda*, that is a relative or an heir to his adoptive father alone. Further, the ideal of a chaste wife was put forth by saying that 'a woman who, from a desire to have offspring, violates her duty towards her (deceased) husband brings on herself disgrace in this world and loses her place with him (in heaven)'. Consistently, *niyoga* was condemned by saying that 'it is the violation of the ancient law'. The practice first occurred during the régime of Vena, 'who caused the intermixing of the castes, his intellect being destroyed by lust'.[9] It is now clear that the freedom granted to the widow to reject *niyoga* was not only in harmony with this new ideal of wifehood but also helped to bolster it up.

What Āpastamba had enunciated as an ideal could not become a norm even by the time of the present Manusaṁhitā, and the Pūrāṇas carry on the preaching of these inhibitions of the Dharmasūtras and Manu. It is improper for Brahmins that a widow be appointed or that she be married on the death of her husband, especially to her brother-in-law. This shows the persistence of norms which change very gradually, even under strong pressure over the centuries. This explains why the epic records traditions which had become unpalatable by the time of the final redaction of the Mahābhārata.

The Pāṇḍavas belonged to a group or tribe with a tradition of privileged familiarity between a woman and her brothers-in-law, a tradition not unknown to the Vedic Aryans. This privileged familiarity was not inconsistent with polyandry and hence reflected a pattern of sexual behaviour in this group or tribe. Among the Vedic Aryans, however, attempts at restricting this familiarity, together with repugnance toward polyandrous union, culminated in holding up strict fidelity to one husband as the ideal of womanhood. The result was that the unpalatable tradition of the Pāṇḍava group or tribe, when it came to be recorded in the work which was to be representative of Brahmanic culture, had perforce to be explained away. It must however be stated that, even when widow remarriage and privileged familiarity are accepted as traits of Vedic culture, polyandry does not necessarily follow as a trait of that culture.

The *mantra* in the funeral hymn in the Atharvaveda reads: 'Oh (dead) man, this woman choosing the world of the husband lies down by thee, the deceased, observing the old (*purāṇam*) universal (*viśvam*) custom ; bestow on her in this world offspring and wealth.' It seems that the woman belonged to one man only, her husband. After his death he was solicited to allow the woman to contract marriage and live a full life in prosperity and with progeny. It was not always that a woman married her brother-in-law. 'When a woman has at first even ten husbands, who are not Brahmins, and if a Brahmin takes hold of her hand, he alone is her husband. A Brahmin alone is a husband, not a Kṣatriya or a Vaiśya ; the sun goes proclaiming this to the five (tribes of) men.' 'Whatever woman, having first married one husband, marries another, if they (two) offer a goat with five rice dishes they would not be separated (from each other). The second husband secures the same world with his married wife, when he offers a goat accompanied with five rice dishes and with the light of fees.' Neither of these Atharvavedic passages in referring to the second marriage of a woman confines it to the members of the family of her first husband. In Taittirīyasaṁhitā, the widow's son is referred to by a term *daidhiṣavya*, son of *didhiṣu*. It is significant to note here that Bṛhaddevatā, written at a time when Vedic traditions were more faithfully remembered and even served as norms, gives the Rigvedic passage with the comment, 'With this (verse) the wife ascends (the pyre of) the dead. The younger brother of the deceased having recited (this verse) prevents her.' The brother-in-law does not assert his right over her. Another interesting feature of the funeral rite is worth quoting in this connexion: 'Let these women, who are not widows and who have good husbands, sit down with clarified butter used as collyrium; may the wives who are tearless, free from disease and wearing fine jewels (or clothes) occupy the seat in front.' Then follows the verse asking the widow to leave the pyre. According to Āśvalāyana, 'The young women relatives should salve their eyes with butter with their thumb and fourth finger and with tender *darbha* blades and then throw the blades away, when the performer of the rites should look at them while they are salving their eyes with the (Rigvedic) verse (cited above).'[10] Who are these young women of the household? Are they only the daughters of the family, or the wives in the family as well? When the wives of the other members of the family, including the brothers, go to the cemetery to lament the dead, it is clear that the brothers did not always share a common wife.

The Khasas

Polyandry does not generally exist amongst the Khasas to-day. It is restricted to Jaunsar Bawar pargana of Dehra Dun district and in Rawain and Jaunpur parganas of the adjoining Tehri State. When the eldest brother marries, his wife is regarded as the wife of his younger brothers also. The younger brothers, if they are but children, become husbands on adolescence. Or when the younger brothers come of age they marry another wife; and the wives of the elders and the youngsters are considered equally the wives of all.[11] It is said that there is no prohibition against a brother taking a separate wife, but if he does so he can continue to enjoy the common wife or wives only if the other brothers do not object. This view, however, seems to be controversial. According to the Dastoor-ul-aml (record of customs for Jaunsar Bawar prepared in 1848), 'none of the younger brothers are allowed to marry a separate or an additional wife for themselves'. In another case reported in Jaunsar Bawar, eight brothers, six being sons of one mother and two of another, married three wives who were possessed in common. Subsequently one of them took another wife. Later the first six brothers appropriated the first three wives and the other two sons the new wife. Dastoor-ul-aml provides another interesting note: 'If according to custom four brothers have two or perhaps one wife between them, and four or five daughters are born, and one of the brothers marries again, the children are not shared between them but remain with the woman; and the woman cannot go to the younger brothers, but must live with the elder; but the children are entitled to equal shares from the four brothers which are paid to the elders.'[12] Although it is not very clear whether the children belong to the woman or to the eldest brother, very probably they belong to the latter. The case specifically refers to female children.

The differing opinions in this account of Khasa polyandry suggest that the pattern, when it was being observed and recorded by different persons, was either undergoing a change or was not properly understood. It is necessary, therefore, to refer in detail to other aspects of Khasa social life in order to understand the pattern of polyandry.

Among the Khasas who do not practise polyandry levirate is generally found.[13] After a man's death his widow is generally appropriated by his brother. 'If anyone stranger to the family marries her, he formerly had to pay a price, and a deed of relinquishment was executed.' This claim of the brother-in-law on the widow is embodied in a Khasa proverb, 'Is she not a cursed woman who does not like her brother-in-law, and vice versa?' The fact that a stranger is selected as a *tekwa* by a widow only when her brother-in-law is not inclined to undertake the guardianship of the widow and her children and that a *tekwa* should be, as far as possible, a kinsman who stands in the relationship of a *bhai* to the deceased, confirms the brother-in-law's prior claim to the widow. For this reason adultery with a brother-in-law is often condoned. Again, no bride-price or formal ceremony is needed when a widow remarries her brother-in-law. That the consent of the brother-in-law is deemed essential for contracting marriage with a stranger logically proceeds from this right.

But it is not essential that a widow should remarry after the death of her husband. She can continue to live in her deceased husband's house and invite her brother-in-law or any other person to live with her there. The son begotten by a brother-in-law in a widow's house is regarded as the son of the deceased and has no right to the property of his begetter. When the widow invites a stranger to stay with her the latter is called *tekwa* or *kathala*. He is not taken as her husband, and the children he begets are regarded as those of her deceased husband. The *tekwa* is taken mainly for helping the woman in the management of her land and bringing up her children, and so a *tekwa* is not generally appointed in the case of a pauper widow. As the *tekwa* is a guardian and not a husband he can be turned out at pleasure.

The widow is free either to marry or not, and to marry anyone she likes. Yet the brother-in-law is more often *primus inter pares*. The question then is, 'Does this right of appropriation proceed from polyandry once prevalent on a wider scale?'

Marriage among the Khasas[14] is secular and contractual. Recently, those who are Brahmanized in thought and practice and who have attained certain social eminence have been trying to change marriage on the Brahmanic pattern. The girl is given away in marriage without consideration, and the bridegroom goes to the house of his bride to receive her as a gift. Some religious ceremonies are performed, and sentiment against revocability of marriage is conspicuous. But the older and more usual form is *teka-ka-biyah*, marriage for consideration.

The bride-price is not always big; a sum of Rs 1000 is not unknown; but it is often Re 1 and generally varies from Rs 12 to 20. But on account of the idea of purchase implied in the bride-price, the bride is regarded as her husband's property. This concept of property in woman explains some of the social facts of Khasa society. Widows are inherited like other goods. Under the system called *Otali* which prevailed in Tehri State, if a man died without leaving male issue, all his property together with his daughters and widows reverted to the Raja. According to Mountaineer, 'If she has no son, she is obliged to marry again, her purchase money going to the revenue of the country.' The Raja's claim on the widows and the female issue who are regarded as the property of the man was so exacting that 'it is complained of as the greatest hardship of all the Raja's exactions, and no evil is so much dreaded as having no son to avert the possibility of such a calamity'. It seems that a Khasa was competent to make a gift of his wife to a Brahmin at Bageśwar at the time of a solar eclipse. She was then immediately received back by her husband paying a price to the Brahmin in cash. The husband had, perhaps, a right of sale too. Under the Gurkhas, a tax was levied on the sale of wives and widows. In Tehri State, the second husband of the widow of a person who had died childless and without leaving any assets, had to pay the creditors of the deceased to the extent of the price he had paid for the widow. It meant that the widow was the property of the deceased, and a new claimant to her hand was therefore bound to pay to his creditors the amount of the bride-price. Similarly, a man who married an unmarried daughter of a person who had died indebted, had to pay a reasonable bride-price for the girl to the creditors of her dead father toward the payment of his debt. The bride-price in such cases was generally assessed in proportion to the price paid for other girls in the family. It was perhaps due to this idea of property in woman that, when a tenant was sold into servitude on his failure to pay his rent, his wife was also forcibly taken away. Herber observed in 1824 that 'a wife is regarded by the Khasiya peasant as one of the most laborious and valuable of his domestic animals. She cooks food, cuts grass, gathers wood, fetches water, and does all the work in the fields except actual ploughing.' A wife was also an additional worker in the family and was much prized in an area where the bare necessities of life were only achieved by hard toil. Besides providing labour herself, she was a potential source of further labour in the form of male issue. Her value was therefore twofold.

The British Government made the sale of wives by husbands, and of widows by the heirs and relations of the deceased, illegal. A creditor in British territory consequently could not make the second husband of a woman liable for the debt of her deceased husband. The widow had the option of marrying anyone she pleased provided the marriage was not otherwise illegal.

The idea of property in women explains also the Khasa code of sex morality and payment on divorce. Extra-marital relations was a crime of the gravest magnitude. A wife found guilty of such an offence, if she still remained in her husband's house, was ill-treated by the family and denied any sympathy by the village. And because of this strict demand of fidelity and loyalty to the group of husbands, strict vigilance was kept on her movements both by the family as well as by the village. This strict rule of morality may have been due to the patriarchal family organization of the Khasas and may have been a reaction to the great liberty a woman enjoyed as a daughter in her parents' home even after her marriage.[15] As regards payment on divorce, it was not the amount of bride-price that was demanded back, but the compensation was fixed on other considerations. When a woman who was free from disease and who had proved fertile sought divorce, compensation was greater. Similarly, the larger the number of divorces a woman went through, the higher the bride-price to be paid for her became as it had to provide for compensations to all her previous husbands and their families. In these circumstances, while a girl of fifteen or twenty could be taken as a wife by paying Rs 20 to 30, a woman of fifty-five who had four divorces to her credit was married by her fifth husband on payment of Rs 285.[16] It is quite evident that a husband was entitled to demand an exorbitant price for his wife when he thought that she was worth it. And still more significant is the fact that his right in the woman did not completely cease with divorce, for even after the divorce he was entitled to a share in the price she brought on every fresh divorce.

Though a woman on her marriage was considered to be the wife of all brothers, primarily she was the wife of the eldest. Among the Khasas generally, and in Jaunsar Bawar particularly, it was not usually possible for the other brothers to possess the wife for conjugal purposes so long as the eldest brother was in the house. His frequent absence from the house, however, provided them with ample opportunities. The eldest brother's preponderant sexual right is further suggested by the fact that the wife's unwillingness to cohabit with him during his presence in the house was considered a grave misdemeanour, and she could be divorced on that count. Again, if he were to ask the wife not to bestow her favours on any of his brothers, the village would uphold the dignity of the eldest brother and the aggrieved brother had no remedy to assert his right. On the other hand, when brothers quarrelled for the affection of a common wife it was within the right of the eldest brother to order a dissolution of the marriage. The eldest brother's exclusive right in the woman is further testified by the fact that a child born of a woman in an extra-marital relationship allowed to her in her parents' home was usually fathered on the eldest brother.[17]

The disparity in the ages of the brothers might have made it possible for the eldest brother to own the woman for conjugal purposes exclusively. This is to be presumed because when the brothers came of age 'in ninety cases out of one hundred a second wife is taken in the interests of the younger brothers'. Does this mean that with the expression of sex jealousy becoming manifest, or with the growing feeling that each brother must have a wife to himself, polyandry is giving place to group-marriage or monogamous union? The interesting fact is that 'if a brother wants to marry any particular girl of his choice, the eldest brother goes through the ceremony of marriage with the girl and he may assign the bride to the particular brother'.[18] Thus the old norms whereby the eldest alone marries, the other brothers merely having sexual rights over the woman he marries, persist, even when the pattern changes to meet the new conditions.

We find from the records of old customs that a woman did not go to the younger brothers on partition of property but lived with the eldest. Raturi on the other hand informs us that at a time of separation, which is uncommon, the sons and the wives are divided amongst the brothers together with other property. But even if the division of wives is allowed on the amicable break-up of a family it is said to rest entirely on the consent of the eldest brother who can refuse to agree to the division asked for by a junior member and appropriate to himself exclusively the wife or wives.[19]

The second wife either must be the first wife's sister or she may be any woman provided the first wife consents to her choice.[20] This limitation on the field of choice is perhaps to guard against any disturbance in family harmony. This new arrangement should give rise to sororate: and if it has become a feature of the Khasa marriage institution it should be described as group-marriage.

Majumdar writes: 'The family house belongs to the eldest brother, the garden, crops, cattle, sheep are owned by him and the wife and the children with the duty of maintenance and control are his. He is the governor of the family and his brothers accept his rule and authority without grumbling.' 'It is to him that the other brothers have to turn for advice and guidance. He determines the duties of the brothers, and provides the necessities of the family, while the rest of the brothers have to obey him and hand over to him their individual earnings.'[21] The eldest thus exclusively controls the property, but has the obligation of lodging, clothing and feeding his brothers.

The preponderant sexual right of the eldest brother, his exclusive possession of wife, the concept of property in woman and the patriarchal family organization—all taken together clearly imply that it was the eldest son who, as head of the family, married, and that his brothers had the right to enjoy his wife, as indeed, to enjoy his other property.

Khasa women between the ages of 15 and 35 go to their parents' village at the time of harvest and on festivals. Women above this age, those that are sick or diseased, and the girls of the family who have come home for the occasion, manage the affairs of the household and the farm in their absence. During the stay at the parents' house extra-marital relationship is freely allowed. Again, 'It was customary in earlier days, and even today it is so in the interior, for girls (conforming to the social etiquette of the family) to offer themselves as bed-mates to guests of the family'.[22] This sexual freedom, socially approved, means that the marriage bond does not completely comprehend or cover the sex life of a woman. Among the Khasas, then, sex is, on the one hand, regulated by confining a woman's intimacy to her brothers-in-law, and, on the other, it is allowed free expression on certain fixed occasions. Further, laxity in sex is associated with matrilocality, and regulated sex with patrilocality and patriarchal family organization. Can it be that the original matrilocality, sex laxity and, perhaps, matriliny of the Khasas have come to be replaced by polyandrous sex life, patrilocality and patriarchal family organization? The socially approved migrations to the parents' house and the celebration of festivals are devices to meet the persistence of the old norms.

Sex disparity is likely to perpetuate, though it does not necessarily give rise to, a polyandrous pattern. According to the census reports from 1881 to 1931, the number of females among the Khasas per 100 males was 77·62, 78·3, 80·2, 79·6, 76·2, and 77·8. During investigations recently carried out, the number of females per 100 males in 6 villages was found to be 84, 43·75, 54·17, 88·2, 66·5, and 57·14. A lower percentage of females, according to some observations, appears to be the characteristic feature of those areas which follow a polyandrous pattern. Writes Dunlop: 'It is remarkable that wherever the practice of polyandry exists, there is a striking discrepancy in the proportion of the sexes among young children as well as adults; thus in a village, where I have found upwards of 400 boys, there were only 120 girls. . . . In the Garhwal hills, where polyandry is prevalent, there is a surplus of female children.' And a similar observation is made by Sherring: 'It has been noticed in our hills that where polyandry has existed the result has been small families with males preponderating.' One cannot say under the circumstances whether polyandry is the cause or a result of the disparity of sexes. The fact that in spite of this disparity Khasa women are married to non-Khasas beyond the cis-Himalayan region on payment of a good bride-price indicates that the sex-ratio does not determine the polyandrous pattern. And again, in spite of the disparity of sexes, the Khasas are known to have, along with polyandry, monogamy and even polygyny as prevalent forms of marital union.[23]

Polyandry is sometimes due to a high bride-price. Among the Khasas it persists even when the bride-price is not high. In some cases the bride-price is said to be Re 1. Bride-price is found among many tribal groups in India but they are not known to have practised polyandry on that account. In India bride-price does not seem to have been an incentive for polyandrous unions.

The Khasas are living in the most inhospitable environment, which has 'the character of being one of the wildest and most rugged tracts, affording naturally very little level ground, and that only in small patches'. 'There is not a single spot of 100 yards of level ground in the whole pargana.' Cultivation is meagre and very laborious. The grazing of cattle and sheep on the slopes of hills at the highest altitudes keeps men busy during the major part of the day. Carrying dung and other manures from the grazing ground to terraced fields is exacting labour. Co-operation among brothers is a necessity. Again, maintenance is eked out with difficulty, and the property that they own can hardly be sub-divided among the brothers to their advantage. Joint-living has thus been necessitated by the pressure of economic conditions. This is testified by the fact that in their opinion the people in Garhwal were ruined because of the disintegration of the joint-family. 'At first, land in Garhwal was measured by acres, then by rods (*sic*), then by poles, then by yards and feet till they all left their village and are today distributed all over the country as domestic servants.' Joint-living which became imperative may have made the sharing of the wife in common desirable. That the *sayanas* (the headman), when their economic conditions allow, prefer polygyny to polyandry bears this out.

A woman with a single husband has to work all alone and she does not cherish such a prospect of drudgery. A Khasa has to go a long distance to tend his cattle and for other economic necessities. If there is nobody to look after his wife in his absence, the lone existence, apart from the danger to which the wife is thereby exposed, makes her miserable. Polyandry guarantees a woman security and this, which she prizes so much, has engendered sentiment on the part of woman to marry a person who has brothers. That an only son of rich parents finds it difficult to get a wife shows the strength of this sentiment.[24]

This pattern which the physical environment and the social conditioning of the Khasas have allowed to be developed among them has been perpetuated by sentiments and values which seek to hold it up as an ideal. Widowhood is generally considered undesirable, and Khasa women are said to feel happy that they are secured against it by a polyandrous union. Polyandry has been coloured by prestige value. 'The larger the group of the fathers the greater the prestige of the child.' A son who claims his parentage to a group of fathers is given a special status, and hence he proudly asserts this fact in the presence of others.[25]

The position of the mother's brother in the patriarchal family organization of the Khasas is striking. 'The mother's brother has an important role to play in the marriage of his nephew or niece. It is he who finds mates for his sister's children. He arranges the ceremony, manages the function and receives presents from friends and relations. As child-marriage is very popular in the hills, a child-bride is carried on his shoulder by the maternal uncle and, once the couple return to the house, it is usually the maternal uncle who supervises the propitiation of spirits and the worship of benevolent gods and goddesses.' Owing to the frequent migrations of Khasa women to their parental homes, the natural psychological bond between the woman and her child does not fully develop. Divorce is another social condition that draws the child more to its father, under whose care it is left, than to its mother. And divorce is frequent among the Khasas. With these social norms there is evidently no favourable conditioning for the development of bilateral kinship among the Khasas.

In the kinship terminology of the Khasas the word *mama* refers to the mother's brother as well as to the husband's father. The term *mami* likewise refers to the mother's brother's wife and to the husband's mother. This kinship usage indicates marriage with the father's sister's daughter. 'Sexual intercourse with the wife of a sister's son is regarded with a peculiar horror by even the most backward Khasas.' If marriage with the mother's brother's daughter was allowed this rule would mean incest with one's own daughter and naturally such a union is regarded with horror. Cross-cousin marriage thus appears to have been once practised by the Khasas. 'Although the husband's father and husband's mother have the same kinship term as that of the maternal uncle and his wife, the wife's mother is *sasao* and her father is *sauhra*.'[26] The wife's mother in a cross-cousin marriage is the father's sister. The terminology resulting from the cross-cousin marriage ceases to be applied to her, as in a patrilineal set-up the father's sister comes to be known much by her relationship with the father. The absence of a similar development in the case of the mother's brother thus confirms the view that bilateral recognition of kinship has not developed among the Khasas. The role of the mother's brother may, therefore, be cogently taken to point to an earlier matrilineal family organization among the Khasas.

According to the custom of *Sautia Bant*, uterine apportionment, which has not yet become extinct in the cis-Himalayan region, the family property is divided *per stirpes* according to the number of wives. Property is not parcelled out into portions according to the number of children but according to the number of wives, and all children of one wife divide among them their mother's share. In other words, sons share the patrimony not in their own rights but as the children of their mother. We also know that common wives were shared on partition by groups of brothers having the same mother.[27]

There are still in the Himalayan districts the Nayaks who are matrilocal. They do not give their daughters in marriage; rather they are allowed to live a life of prostitution. Children born to them are attached to the family of their father who regards them as his own or his brother's children. It is the sister or the daughter who is the chief worker for the family, the men being drones who live on her earnings. Marriage of a daughter has only been recently allowed. But when she is married, and thus passes to another family, she loses her right of inheritance in her father's family. The Nayaks get their wives by purchase from the Khasa Rajput family. The Khasas have the patriarchal family organization, and their association with the Nayaks must tend to develop among them a patrilineal family organization.[28] This patrilineal family organization is not found to be incompatible with the sex freedom they allow to the female children of their family. We clearly see here a process of adjustment to the new social conditions. The social environment in which the Khasas live shows that matrilineal family organization among the Khasas of the distant past cannot *a priori* be ruled out.

The Khasas have a cultural pattern which differs from the Brahmanic one very conspicuously. 'They remarry their widows, practise levirate, sororate and polyandry, recognize divorce as legal, while intermarriage between the various Khasa groups is not tabooed and children born of such marriages do not suffer any social stigma.' Another striking feature of their culture is the 'customary raising of *menhirs* and other stone memorials' more on the line of the Khasis.[29] The Khasas in their features and language show themselves to be Aryan. They are spoken of by Manu (x 22) as 'Vrātya-Kṣatriya', i.e. the military tribe that did not fulfil the sacred obligations laid down for the Aryas in the sacred literature. In the Nātyaśāstra of Bharata *bālhika bhāṣā* is said to be the native language of the Northerners and the Khasas. Varāhamihira puts Madradeśa and Strīrājya in the north-west of India. In the Mahābhārata, Karṇa condemns the Vāhyakas as the 'very dregs of the earth' because they eat fish and flesh of kine, drink spirits, do not study the Vedas or perform the sacrifices, and their women, given over to drink and dancing undressed, are unrestrained in their sexual behaviour. He further alleges that, because of this licentious nature of their women, the sister's sons, and not one's own sons, inherit property among them. He then condemns the Khasas, the Keralas and others who, according to him, are as worthy of blame as the Vāhyakas in their practices. Vātsyāyana avers that, common with Strīrājya and the province of Grāmanārī, young men in the Bāhlika country were married to a single woman and were in the same position as ladies of the harem in other countries. Chakladar tries to distinguish the Vāhyakas from the Bāhlikas, but in the Mahābhārata this distinction does not seem to have been always maintained.[30] It may be concluded with a fair degree of certainty that in the north and the north-west of India lived some Aryan tribes who did not change their cultural pattern with the Vedic Aryans who had settled in the Madhyadeśa, middle region. As the word Arya had by then come to signify a cultural group, and the culture of the Madhyadeśa was regarded as the culture of the *śiṣṭas*, the *élite*, those who differed from the culture-pattern were either condemned as Vrātyas, or, as Karṇa has done, abused according to the degree of their differences.

The Khasas hold festivals in honour of the Pāṇḍavas. When they celebrate *pando-ku-sradh*, they offer *piṇḍas* at a fixed place known to the villagers as *pandavu-ki-chori*. Some persons are supposed to be possessed by the Pāṇḍavas. The words that fall from their lips are taken to represent the voice of the gods, and they often regulate their lives in accordance with these messages of the spirits. The villagers believe that their life in the village and their work on the farms will proceed smoothly if these gods, who are propitiated by *piṇḍa* offerings, bless them with plenty. Accordingly, in the evening feast and general rejoicing, wantonness and debauchery, for which the Khasa festivals are noted, are strictly avoided because the gods are believed to be offended thereby. Evidently they show great respect to the Pāṇḍavas, whom they consider to be their ancestors.[31]

Karṇa refers to Draupadī as a harlot. Was it merely a term of contempt for a woman who was polyandrous? Or can it be that in calling Draupadī a harlot he wanted to suggest that in the region from which the Pāṇḍavas came sexual life was unregulated? Here we may very pertinently add one fact. When Pāṇḍu found that he was incapable of procreating children he asked his wife Kuntī to approach some sage to beget children on her. When Kuntī protested against this proposal, Pāṇḍu expounded to her the righteousness of the course he had proposed. 'In ancient times women were perfectly free and independent; sexual freedom was the recognized law. There was nothing wrong if women, from the years of their maidenhood, intrigued with persons other than their husbands. They belonged to their husbands only during their seasons; at other times they had perfect liberty.' This ancient law was modified by Śvetaketu who once saw his mother carried away by a man in the very presence of his father and himself, without any protest from his father. He then established a new rule of marriage, namely that thenceforth a woman should always belong to one husband. 'The ancient law, however, is still hailed in honour by the great sages and the women of northern Kurus.'[32]

The Khasa's attitude to the Pāṇḍavas, and the Pāṇḍu's attitude to sex, which is more on the line of the Khasas, may with further research be found to shed light on the cultural pattern of the tribe to which the Pāṇḍavas belonged.

The Nairs

McLennan believed that polyandry among the Nairs was universal and of a non-fraternal type. Recent studies on the Nairs do not however unhesitatingly accept polyandry as a feature of Nair life. It is argued that in the extensive Malayalam literature of the eighteenth century there is no single allusion to polyandry, although the social life of the Nairs, including the laxity of morals, is described therein minutely. The evidence of literature alone cannot however be regarded as proof that polyandry did not exist amongst the Nairs.[33]

Mateer knew of six brothers keeping a common wife. Mateer and Fawcett recorded instances of polyandry. A few instances of fraternal polyandry among the Nairs came to the notice of L. K. A. Iyer. Kannan Nayar wrote in the early part of this century that he knew several instances of non-fraternal polyandry; many of his elderly female relations had known times when polyandry was very common. The Malabar Marriage Commission recorded polyandry as still lingering in Ponnani and Waluvanad taluks. Aiyappan says that the absence of definite relationship terms for relatives on the father's side shows the subordinate position of the father in the Nair society; he was not an equal partner in marriage. Disregard of the father-factor goes to such an extent as to tolerate marriage of parallel cousins on the father's side.

The relatively insignificant position of the father is a natural consequence of polyandry ; matriliny of the Nairs is not wholly responsible for it. As regards polyandry, he observes that adelphic polyandry among the Nairs was never wide in its incidence and is directly opposed to all the Nairs' social regulations. Again, sororate and levirate are unknown. With these prohibitions it is difficult to consider adelphic polyandry even as a survival. Non-fraternal polyandry was generally circumscribed within an *inangu* and was subject to the supervision and control of the head of the extended matrilineal family.[34]

Panikkar would like to call it the adelphic variety of polyandry if any assumption in favour of polyandry is to be conceded at all. According to him, when a woman smeared oil on the back of a man it was considered a sort of semi-marital function as the wife was the only woman to perform it. A man could always ask his brother's wife to do it for him. It was allowed by public opinion and the woman was not restrained by the brother who was her husband. The wife of a brother was looked upon as a person to whom one could openly, though not legitimately, pay court. This suggests an earlier existence of fraternal polyandry among the Nairs. But, according to Panikkar, 'this may be due to the fact that marriage of cross-cousins being the orthodox form of marriage, all brothers are potential husbands of a woman and hence after her marriage with any one of them all the brothers treat her " half as a sister and half as a wife " '[35]. This is obviously a more acceptable explanation of the privileged intimacy between a woman and her brothers-in-law than the hypothesis of survival. But the explanation can be accepted only if this privileged intimacy was restricted to those brothers of the husband who were older than the wife, because a Nair husband must always be older than his wife. Whether this semi-marital function was restricted to such brothers is not stated by Panikkar.

The Nair family, *tarwad*, formed a social group with one or more other families of the same sub-caste with certain specific rights. This social group was known as *enangar* or *inangu*. All festivities and ceremonies were arranged between these families forming an *enangar*. 'Neither funeral rites nor marriage ceremony, nor even any one of the hundred other main things which go to make up the ordinary life of a Nair family could take place without the co-operation or at least the presence of a member of the *enangar*.' When a *tarwad* was under death pollution and could not use its kitchen the *enangar* cooked food for the *tarwad*. One of the *enangar* acted as a minor priest at funeral ceremonies, where he was fed sumptuously. This social group was endogamous in the sense that a member of the *enangar* was a preferential mate for a female provided he happened to be a cross-cousin. 'Although the right is sometimes disregarded from consideration of wealth etc., it was until a century ago so much respected that even a married woman was sometimes compelled by local chiefs to accept as additional husbands those of her *enangar* who wished to marry her.' In the circumstances any young man in the *enangar* had certain rights not distinctly conjugal, but still pertaining to conjugality, in respect of a woman of the same generation and in the relationship of a cross-cousin. 'He is the one who avenges her against insults. Her children call him "little father", and he has the right of entering any part of her apartment. Among the common folk a system of conjugal relationship may exist.'[36]

On the basis of those two social facts it can be said that the conjugal rights of a large number of persons over a woman were recognized in earlier times and that semi-conjugal rights or functions in respect of these persons persisted down to recent times. Polyandry did not necessarily exist as an institution among the Nairs.

In the works of Kunchan Nambiar polyandry, though not alluded to, is hinted at indirectly. 'It is against the laws of the castes for a woman to have four or five husbands.' That means that more than one husband for a woman at a time was repugnant to the moral ideas of the Nairs in the eighteenth century. And it is this moral sentiment that may explain the restriction of privileged familiarity to the mere semi-conjugal rights and functions of the later times. It is likely, therefore, that polyandry in the eighteenth century or earlier was not unknown among the Nairs. According to Moore, nothing analogous to *sambandha* marriage existed among the Nairs before 1800.[37]

The whole question of sex relations among the Nairs may be approached from a different angle. Nair marriage is generally known as *sambandham*. Nairs also perform a ceremony called *tali-kettu-kalyanam*. A brief analysis of *sambandham* as it was before the Malabar Marriage Act of 1896 and of the *tali-kettu-kalyanam* ceremony as performed in the nineteenth century and earlier will give us some idea about sex relations amongst the Nairs. A Nair girl could have *sambandham* not only with a Nair man of her caste or of a caste above her, but with a Brahmin and Kṣatriya as well. It was considered an honour to be allied to a Nambudiri family by marriage. When the suitor was a Brahmin he told the *karnavan*, the head of the Nair *tarwad*, of his desire to marry the girl of his *tarwad*. Then on an auspicious day the suitor would bring some *pudakas* (clothes which the wife wears) and hand them over to the girl in the presence of her relatives and neighbours, and it would be duly announced that they were married. Similarly, when the suitor was the girl's father's sister's son, the marriage would be a simple affair, and the *pudaka* given without much ceremony. It was only when the Nair suitor was not so related that all the village and all people in any way related to the girl would be present and, in the case of rich families, invited to a feast. The bridegroom would be accompanied by members of his family and the chief of his village and would hand over the clothes to the bride. In some cases the mother's brother of the bridegroom used to give them to the mother of the girl in the presence of the village headman and family elders assembled in a hall. But Nair marriage did not always turn out to be permanent. '*Sambandham* in itself, though recognized as legal, has not the binding effect of a proper marriage. It is in theory dissoluble at will and often it happens that, due either to misunderstanding or quarrels, either of the partners breaks off relations. . . . The aggrieved party can, without further formality, marry anybody else.' This instability of marriage among the Nairs and the singular freedom of divorce which it implies was due to the fact that *sambandham* implied no legal obligation of maintenance to the divorced wife.[38] The Nairs being matrilineal and matrilocal, children born of *sambandham* belonged to their mother's *tarwad* and inherited from the mother. The husband was a visitor to his wife's place, and children had no tie with him. It was easy, therefore, for a man or a woman to dissolve marriage at his or her caprice. It should be obvious that *sambandham* had little formality, less stability and no legal or social obligation. Is it too much to say that it was marriage in a very loose sense?

The *tali-kettu-kalyanam* was a ceremony in which a member of the *enangar* family generally tied a *tali*, a small piece of gold plate, round the neck of the girl. It was performed before the girl attained puberty. Every girl had to go through this ceremony before she attained puberty, otherwise a sort of religious impurity was supposed to be attached to her and she and her family would be excommunicated. Prominent people of the village and the *enangar* were invited by the *karnavan*, the head of the *tarwad*, for consultation in respect of various arrangements relating to the ceremony. On an auspicious day a *pandal* was put up and in the middle of this was kept *aṣṭamāṅgalyam* (eight happiness-giving things) consisting of a measure of paddy, some rice and an absolutely white cloth, an arrow, a lighted lamp, a looking glass, a blossom of the coconut palm and a *cheppu* (which is the Malabar equivalent of a powder-puff). The girl was elaborately dressed and richly ornamented. The *tali*-tier, who came accompanied by a party of villagers, was given a seat of honour. Then the brother of the girl washed his feet, an expression of extreme politeness among the Nairs. The eldest girl's father's sister's son would give some brand new pieces of fine silk cloth to the girl, brought into the *pandal*, and then the *tali*-tier would tie the *tali*. This was followed by a grand feast which went on for four days. On the fourth day the girl and the *tali*-tier would again sit in the *pandal* and the cloth in which the bridegroom had been dressed on that day would be torn asunder, signifying thereby that the union between the two had come to an end. On the death of the *tali*-tier the girl observed a pollution for fifteen days. The children born of this girl generally called the *tali*-tier 'little father'. As for the girl, virginity ceased with the performance of this ceremony. She was initiated into womanhood: she was called 'little Amma'.[39]

The *tali-kettu-kalyanam* was generally performed once in ten or twelve years; perhaps because it was a costly affair. The *tali*-tier might be a priest or a Kṣatriya lord, but a mother or a member of a barber caste has also been known to perform the ceremony.[40] The different modifications in the various localities of Malabar may probably be due to the declining significance of this ceremony in the life of the Nairs. In consequence of its decline, it seems to have changed its character, and can now hardly be called a form of marriage at all. Even so, it is more nearly a form of marriage than the *sambandham*, the essential element of both being the giving of cloth. But the *sambandham* is a personal affair, conducted in privacy, while the *tali-kettu* ceremony was performed with all pomp and show. In a community where the marriage tie was loose, publicity was an essential element of marriage. The marriage partner was generally a member of the *enangar* group who stood in the relationship of a father's sister's son. The *tali*-tier was also preferably a member of the *enangar* group and the father's sister's son performed the duty of giving the cloth. The *tali*-tier was paid something for tying the *tali*, and this might have been to compensate him, if he were a cousin, for surrendering his preferential right over the bride. On the fourth day the union of the *tali*-tier with the girl was brought to a ceremonious end. This would not have been necessary if the *tali-kettu* rite had not created a permanent bond. Another significant difference between the *sambandham* and the *tali-kettu* is that while the *sambandham* did not demand any obligations of either the husband or the wife, the *tali-kettu* created certain duties and privileges. The woman observed death pollution on the death of the *tali*-tier. Observance of death pollution is an expression of kinship among the Nairs and all the members of a *tarwad* have to observe pollution on the death of a member however distantly related he may be. One can see why the *tali*-tier did not generally marry the girl after the dissolution of the bond created by *tali*-tying. He was called 'little father' by all the children born to the woman on whom he tied the *tali*. These duties and privileges, dissolution of marriage bond, formality of *tali*-tying and public approval of this union—all taken together clearly show that the *tali-kettu* was more than a mere formality. In essence it was marriage not much different from the *sambandham*. The fact that the ceremony was considere so important that the head of the Nair family was even allow to alienate *tarwad* property for its proper performance significant. The family property cannot be thus encumbere for an insignificant ceremony. Socially, the girl who did n go through this ceremony before puberty was considere impure and was excommunicated. Why this regard for ceremony which had no importance in life? It seems that one stage *tali-kettu* must have been a real marriage.[41] Befo the girl attained puberty and became fit for consummation sh was ceremoniously married to a person who had preferenti claim over her. His right over the girl was then bought of and the girl was thereafter allowed to live a free life in regar to sex. The fact that the girl was called Amma on the pe formance of this ceremony shows that the ceremony, performe just when the girl was reaching the stage of puberty, was public announcement that she was now allowed to consort wit men of her choice.

In 1788 Tipu Sultan issued the following declaration: 'Sinc it is a practice with you for one woman to associate with te men, and to leave your mothers and sisters unconstrained i their obscene practices and are thence all born in adultery an are more shameless in your connexions than the beasts of th field, I hereby require you to forsake these sinful practices an to live like the rest of mankind.'[42] As Tipu was brought u in the tradition of Islam which insisted on strict fidelity on th part of woman he, as a staunch Muslim, must have bee naturally shocked at the freedom enjoyed by a Nair woman He must have exaggerated the degree of freedom in sex relation among the Nairs, but it testifies to the nature of sex lif inferred from the performance of the *tali-kettu-kalyanam*. Nai marriage had no legal or religious basis. There was no agreement between the contracting parties, and there was no law of divorce or customary convention to regulate divorce. Such sexual relations dissociated from economic relations and socia sanction, represent the most primitive sexual organization. Nai polyandry may, then, be a reference to loose sex relations.

We have seen that in the Mahābhārata, the Khasas and the people of Kerala were condemned outright by Karṇa for the wantonness of their women. They were said to be as bad as the women of the Vāhyakas in their sexual depravity. The Vāhyakas were said to be matrilineal, and although the Khasas have now a patriarchal organization, they were once in all probability matrilineal. The Nairs are distinguished by matriliny, matrilocality and looseness of the marriage tie, and thus bear out Karṇa's description of them. It seems quite fair to conclude that the Nairs represent a cultural pattern closely corresponding to that of the Vāhyakas and the Khasas in the past.

But the pattern among the two groups has developed along different lines. By the Malabar Marriage Act of 1896 marriage among the Nairs was stabilized. According to the Act, when a *sambandham* was registered, it had the incidence of a legal marriage, i.e. the wife and the children were entitled to maintenance and to succeed to half the self-acquired property and to the whole of such property when no member of a man's *tarwad* survived him, when he died intestate. Parties to such a *sambandham* could not register a second marriage during its continuance. The Act did not restrict divorce but tried to minimize its possibilities.

Notices of intention to register under the Act of 1896 numbered 36 in the first year, but declined to 24 and 14 in the years that followed, and it was clear that people were not prepared to avail themselves of the legislation because of the clause of registration. The modified Act of 1898 dispensed with the registration of the *sambandham*. Once the marriage was stabilized it prepared the ground for the future development towards patrilocality and the patrilineal individual family. According to the Madras Marumakkattayam Act of 1933 the property of a person dying intestate is divided equally by his mother, each of his widows, every child (son or daughter), the female children of a pre-deceased daughter, and the female children of a pre-deceased daughter of a pre-deceased daughter. When there are no children or lineal descendants in the female line through a deceased daughter, the mother and the widow (widows) shall share equally and, in the absence of a widow, the mother shall take the whole property. If a man leaves only a widow (widows) she gets half, the other half going to his mother's *tavazhi*. If there is no mother's *tavazhi*, the wido gets the whole property. If there is no widow, the mother *tavazhi* takes the whole property.

A husband or wife desiring divorce had to apply to a cour of the district *munsif* to dissolve the marriage, and the cour would declare the marriage dissolved six months after the servic of notice on the other party. When a marriage had been dis solved without the consent of the wife, she was, notwithstand ing such dissolution, entitled to claim maintenance from th husband so long as she remained a Hindu, was chaste, and di not form a *sambandham* or contract a marriage, provided tha 'she was not guilty of adultery uncondoned before suc dissolution'.

It was generally supposed that it was the presence of th Nambudiris that made the Nairs polyandrous. But as Sir T Muttusami Ayyar rightly points out, 'A handful of Brahmin who must have settled in Malabar in small groups from tim to time could not have succeeded in uprooting the nationa institution of marriage, if any, even if they had attempted to d so.' It may be also pointed out that polyandry continued t flourish until recently among the Tulus of South Kanar although the Brahmins there did not consort with Tulu girls The situation seems to be, as we have seen above, that the Nai women, on the performance of the *tali-kettu* ceremony, wer allowed to form alliances and dissolve them at their caprice The presence of the Nambudiri helped to perpetuate this practice among the Nairs for a longer period and even whe marriage came to be stabilized by *sambandham*. It also helpe to perpetuate the Nair matrilineal family organization, whic survived until only recently. But it must be pointed out tha apart from this practice of loose marriage and the Nambudiri' role in perpetuating polyandry among the Nairs, it was th assumption of the court that the Nair *tarwad* was impartible tha contributed mainly to its perpetuation over a longer period.

We have so far dealt with polyandry found among peopl who are or who were once matrilineal. But it is also found among tribes and castes which are patrilineal—the Iravans he toddy-tappers of Malabar, the Coorgs and the Todas and he Kotas of the Nilgiri Hills.

The Iravans

Polyandry, which now survives particularly in the marginal reas among the less advanced members of the Iravan[43] and Kammala (artisan) castes in Malabar, was once practised regular-y by the toddy-tappers, the Iravans and the Tiyans, and the rtisan castes of Kerala. From the account of Barbosa and the notes of Duncan it appears to have been allowed rather than practised.

The common practice is that the eldest brother goes to the bride's house for marriage. Later on all the brothers are seated in a row on the right of the bride at a ceremony in which all the brothers are given a sweet drink, making the brothers co-husbands of the woman. This conventional ritual of 'drinking milk' persists in areas from which polyandry has by now disappeared. Aiyappan records that when a common wife of five brothers in a blacksmith's family was found unable to look after the comforts of all, the youngest expressed a desire for a new wife for himself. The common wife thereupon advised him to ask his eldest brother to marry again a younger wife whom they all could share. From this episode the eldest brother appears to have been the real husband of a woman, and all his brothers had as a matter of right the sexual use of his wife. When in a law suit for maintenance brought by the common wife of two brothers the judge awarded a decree against the elder brother, he was perhaps led to postulate such a condition as the norm among the Iravans. Aiyappan, however, finds this decision against the normal usage of the people and as such unjustifiable. Aiyappan records a case where an eldest brother wished to monopolize the common wife to himself. The youngest of the four brothers, however, carried her forcibly to his bedroom on one or two occasions. Her parents did not like to interfere in the matter and sided with the eldest 'lest it be said of us that we were responsible for the break-up of their joint-family'. This case upholds polyandry as a social device to preserve the joint-family structure and does not clearly show whether all brothers were husbands of the common wife. Th common wife has her likes and dislikes about her husbands but she manages to conceal her partiality for one or the othe in order to avoid any clash in the family on that account Co-operation of brothers on the farm is necessary for prosperity and polyandry which facilitates joint-living is beneficial t the Iravan agricultural community. It is in order to continu the joint-family that two brothers who follow different occupations in different countries wish for a joint wife. Polyandry among the Iravans thus appears to be socially conditioned. I has been perpetuated by public opinion which applauds successful polyandry.

Because of the normal sex-ratio and the growing demand for labour in the field, polyandry must give place to group-marriage or polygyny. Such a development is already apparent among the Iravans: 'The brothers may divide themselves into two or three batches for purposes of marriage, or they go on for some time with one wife, then some of them leave the joint concern and have separate wives for themselves; others remain in the partnership and also have additional wives. Very often nowadays the number of brothers in a polyandrous marriage is two only. . . . Own sisters and even parallel sisters become co-wives of brothers.' It is clear from this changing pattern recorded by Aiyappan that the sentiments in favour of polyandry persist. That is perhaps why a man of a polyandrous group who wanted to take a wife to himself found that five of his brothers and three common wives sat in a row at the milk-giving ceremony on either side of the marrying pair to frustrate him in his aims. The persistence of these sentiments when there is neither the economic urge nor public opinion to bolster up polyandry is significant.

According to Thurston, 'In ancient times the adoration of Anchu Tampurakkal or the five deities, now identified with the Pāṇḍavas of the Mahābhārata, prevailed among these people.'[44]

The Coorgs

Polyandry seems once to have been a trait of Coorg culture also.[45] Cole, writing in 1871, does not refer to it, but Elliot, riting in the same year, refers to the Coorgs as those 'who ere once polyandrists, but who are now thoroughly ashamed f the custom'. Moegling writing in 1855 testified to the practice of polyandry among the Coorgs: 'The wives of the rothers of one house are considered common property. Childen consequently are rather children of the family or of the nother than the acknowledged father. . . . Jealousy, mistrust, eart-burning quarrels, often deadly hatred, spring from these itter roots.' The family atmosphere which Moegling pictures ere suggests that from the beginning of the latter half of the ineteenth century polyandry must have been found undesirble, and its disappearance by 1870 is quite natural. Lieutenant Connor who conducted his survey of Coorg between 1815 and 817 showed himself acquainted with the plurality of husbands mong the Coorgs. He wrote: 'Though now practised, it is ot so general as it was at an earlier period and there is reason o hope that it may be discontinued.' On his evidence, then, olyandry seems to have become unpopular by the beginning f the century. In the forty years that intervened between Connor and Moegling this unpopular practice must have reated tensions which brought about its disappearance very uickly.

Rice wrote in 1878: 'The Rajas appear to have rather encouraged than otherwise the separation of families, probably as a means of decreasing the practice of polyandry as well as with a view of extending cultivation.' Cole writes that after 1805 some Okkas quarrelled and the Rajas granted them leave to divide off. With the breaking up of the joint-family polyandry became less popular.

Another fact to be noted about polyandry among the Coorgs is that, according to Connor, 'This custom is deduced by tradition from the five sons of Pāndoo.' Certain Coorgs even now call themselves 'Kontidesadavaru', belonging to the land of Kuntī.

The Todas

Among the Todas of the Nilgiri Hills,[46] when a boy is married to a girl, all his brothers, including those who are born later, are usually regarded as husbands of the girl. From actual marriages it was found by Rivers that the husbands were often own brothers, and at times clan-brothers. Long before Rivers, Captain Harkness had recorded a case where husband were not brothers. Rivers also came to know, during his stay that three males of different clans were planning to have a common wife. He also found from genealogies that one woman had husbands belonging to different clans; but in this case the men were half-brothers by the same mother.. It may be presumed that originally Toda polyandry was not necessarily fraternal and that it came to be so later on. Rivers observed: 'It is possible that at one time the polyandry of the Todas was not so strictly "fraternal" as it is at present.'

When the wife becomes pregnant, the elder brother pe forms the *pursutpimi* ceremony, the ceremony of giving the bow and arrow, which confers social fatherhood. The first performer of this ceremony becomes the father of the first two or three children. At a succeeding pregnancy another husband performs the *pursutpimi* ceremony and becomes thereafter the father of children born until the third man, if there be any, gives the bow and arrow. The social fatherhood of a child is conferred entirely by this ceremony, and hence fatherhood is foisted upon even a dead man if no other man performs this ceremony after his death.

This conventional method of fixing paternity seems to be necessary among the Todas for two reasons. When the husbands are not own brothers, and when they live in different villages, the wife goes to live with each husband in turn for a fixed period, usually a month. It is difficult to fix paternity in such cases, and some social convention has to be evolved to give legal status to the children of such unions. On the performance of this ceremony the child is affiliated to the clan and the family of the husband who performed it. In the second place, sex-relations among the Todas are not confined to partners in marriage. A woman may have one or more recognized lovers. Adultery is a word unknown in their language, and is no ground for divorce—which is not rare among the Todas. Adultery is not regarded as wrong, and a grudging husband is looked down upon. Sex-laxity is not merely tolerated but is socially approved in that a child who is born of the wife before she first comes to stay with her husband is accepted by him. Ordinarily in a community that condones laxity in sexual life paternity is foisted upon the legal husband of the mother of the child. The Todas could not devise such a social convention as it does not meet the need of a polyandrous community. The *pursutpimi* ceremony meets both these situations.

Although social fatherhood is conferred on the eldest, all brothers are equally regarded as fathers of the child. If a man is asked the name of his father, he usually gives the name of any brother, and most often of one who is more prominent and influential than the others. There are, however, certain features which invalidate this general status of fatherhood of all the brothers alike. If one of the brothers leaves the rest and sets up an establishment of his own, he might lose his right to be regarded as the father of the children. This means that he is the father of the child and husband of its mother as long as he lives jointly with his brothers. Is it not, then, that he shares conjugal rights with his brother and is not a joint-husband? Rivers relates how the two younger of three brothers had taken a wife without the knowledge of the eldest. The eldest did not approve of the choice and wished his brothers to send the wife away; this they refused to do. The matter was referred to the council for settlement. In the meantime the eldest lived in the house and the other two lived at the village of their newly-wedded wife. The point of dispute is clear, namely that the brothers had no right to marry any woman without the approval of the eldest brother. And this privilege of the eldest brother of selecting a wife for his other brothers was such as would entitle him to drive the offenders out of the house. Does this mean that the eldest brother was the first and the principal husband and his other brothers were conceded sexual rights in the woman and as such were regarded husbands of the common wife?

Rivers relates another interesting episode. When the eldest child of Tudrvan was about to be born, Tudrvan was away. He was not able to come in time to perform the *pursutpimi* ceremony, and therefore his brother performed it. The son born of the woman later declared himself to be Tudrvan's son and was so recognized by the Todas. This can be explained in two ways. Tudrvan's son must have been influential or powerful enough to set aside the usual convention and dictate his wishes to the community. This is not unlikely as, during Rivers' stay in the hills, the grandson of this son, Kuriolv, was found doing the same thing. If so, we have here one of the agencies of social change in the preliterate society. But such outstanding persons who can change the *mores* of the community aré a rare phenomenon. It might have also meant that the son really belonged to the eldest brother according to the Toda convention, and as he was unable to perform the necessary ceremony for the recognition of his fatherhood, his brother was asked to do it as his representative and the child was accepted as the child of the eldest brother. This explanation substantiates our contention that the eldest brother had privileged rights over the wife and children.

Rivers also gives another interesting fact. On the death of a wife husbands become widowers, a condition which entails certain disabilities. In order that all the brothers may not have to undergo this state of widowerhood with its consequent disabilities, only two brothers or so are declared widowers, the rest being absolved. How can this be done if all were really the husbands of the woman? In fact, they were only sharers of conjugal rights with the elder brother.

Polyandry implies certain privileges of leviration. On the death of one brother the others have first right over the widow. If the widow is not compelled to marry the brothers of the deceased, they are at least compensated, and their right over her is bought off. Among the Todas, if the widow marries a man who is not one of the brothers of her dead husband, the new husband has to pay to the children of the dead man twice the number of buffaloes he paid for the woman, as compensation. This compensation to the children of the deceased is possible only when the deceased has a property right in his wife. If one brother had such property right in woman, the husbandhood of the other brothers becomes conventional only.

Property in woman seems to be recognized in the Toda custom of transferring one's wife to another man on payment. Rivers records that a man marries two wives in order that he may dispose of one by the *terersthi* (transference) custom and so become rich. But how can we harmonize this proprietary right in woman with the sex-laxity shared even by a married woman? Again, even as regards the transfer Rivers informs us that frequently the wife is taken by force. This evil went so far that the Government was requested to intervene and check the abuse of the custom. It seems that the woman's freedom is a primary fact. Marriage has come to imply buying off sexual rights in woman, but these rights are not regarded as so sacrosanct that they cannot be violated. Hence violation of these rights is no ground for divorce. Lovers of a married woman do infringe these rights. Transference of wife against the husband's will is no offence against his rights in woman. In short, marriage is superimposed on the original condition of unregulated sex life, but it has not evolved so far as to impose the sexual ethics of a monogamous patrilineal community.

Rivers observes that it is less frequent for the brothers of a family to have one wife only in common. Often each brother has his own wife, or several brothers have more than one wife between them. Though it has become less frequent for several brothers to have only one wife in common it is very doubtful whether this indicates any real decrease in the prevalence of polyandry. Polyandry as a pattern among the Todas persisted, but with the increasing number of women it has come to be associated with polygyny. Rivers forecasted that the custom of monogamy among the Todas would develop out of polyandry through a stage of combined polyandry and polygyny. He observes that the Todas practise female infanticide and, as there is close association of polyandry with female infanticide, the polyandry of the Todas may be a product of this custom. But it is far more probable that the Todas brought the practice of polyandry with them when they came to the Nilgiris.

The Todas do not appear to have given up infanticide completely though they profess to have done so. If polyandry is the product of the disproportion of sexes there is no convincing ground that sex proportion has changed enough to explain their switch over to polygyny. And even if this can be assumed, it would fail to explain the sex-laxity among them. On the other hand, if we presume that sex-freedom represents one trait of a culture which possibly had matriliny as its other trait, polyandry may represent a modification of this trait in the patrilineal Toda culture. The Todas have a well-established patrilineal complex, and there is a striking segregation of sexes in their culture. Women cannot have anything to do with the dairy ritual of the Todas, the most characteristic trait of their culture. They cannot even enter a dairy, nor go by the road usually traversed by the sacred buffaloes. The funeral customs of any community are most conservative because people stick to them tenaciously. Among the Todas, there are separate days for the cremation rites of males and females, and the cremation places for the males are different from those for the females. This segregation of sexes conforms to the strongly patrilineal character of the Toda social organization, and polygyny and monogamy are compatible within an organization of this sort. The shift to polygyny and monogamy must have resulted therefore from the superimposition of the sexual ethics of a patrilineal community on the earlier condition of sex freedom.

Can we bring forward any evidence from Toda culture to suggest the possibility of earlier matriliny? Rivers suggested the possibility of it although he could not bring convincing evidence to substantiate his inference. We may discuss here what appears to us good ground in support of Rivers' inference. The Todas are divided into endogamous groups. Each group has a number of clans which are exogamous units for marriage. Intercourse with a member of another clan is not completely unknown, and can be justified by the fact that a girl who is generally married at the age of two or three is transferred to her husband's clan long before she is mature for sex-life. Her sex intimacy with any member of her father's clan cannot be objected to as a breach of exogamy, and yet the Todas regard such intimacy as reprehensible. Besides this rule of exogamy the Todas rule that a person may not marry the daughters of his mother's sister, the sisters of his father, his sister's daughters or the daughters of his father's father's sister. All these female relatives are included in one general term, *puliol*. They are his blood kin if kinship is recognized through the male as well as female. Can we then say that blood kinship is a restrictive norm of Toda marriage? The fact that cross-cousin marriage is not merely preferred by the Todas but is imperative in the sense that an unmarried person is married to a cross-cousin before cremation, negates this inference. This avoidance of the mother's sister's daughters, the sister's daughters and the father's father's sister's daughters is necessary in a matrilineal community with the dual organization of society for marriage. This avoidance among the Todas can be attributed to an earlier matrilineal family organization. The father's sister's daughter must have been incorporated in the original list because if the mother's sister's daughter or the father's father's sister's daughter was avoided in marriage it was all the more necessary that the father's sister's daughter should be avoided, because in a patrilineal society the father's sister is a nearer relative. The original avoidance of three females was on the basis of clan-exogamy. In the new complex their avoidance has its basis in blood consanguinity. Inclusion of the father's sister's daughter is, therefore, justifiable.

It is quite possible to see in the Toda marriage rules and practices a complex which has close affinity with the sex complex of the Nairs. We will not enter here into a theory of the Todas' original home in Malabar nor of their borrowing from the Nairs: our main concern is to depict a pattern of sex-behaviour that seems to have been once widely prevalent—among the Khasas, the Nairs and even the Todas—and the form that it has taken in different environments and under the impact of different cultures.

The Kotas

The Kotas, the neighbours of the Todas in the Nilgiris,[47] are not strictly polyandrous; but a man's brothers, own as well as classificatory, have free sexual access to his wife. Mandelbaum records a tale of 'a man who asked his brother to keep away from his newly acquired second wife so that more of her time might be available to her husband. For this mild and seemingly reasonable request, the husband was almost outcaste, had to pay a heavy fine and send the woman to live with his brother for a time.' The slightest sign of sexual jealousy between brothers evokes from the relatives and the sib every effort of which they are capable to nip it in the bud. In no way may a man question the right of his brothers to intimacy with his wife, although he himself has precedence on his wife's attention and favours. Nevertheless, his brother's intimacy with his wife in his absence is neither interfered with nor resented, but is usually pre-arranged. A Kota woman does not sleep alone in a house lest the sorcerers from the neighbouring Kurumba tribe find her an easy prey. Hence the husband who is away from the village overnight, delegates one of his brothers to sleep with his wife. Similarly, when a man is ill or incapacitated or in any way unable to fulfil his husbandly duties, his brothers take his place. If a woman refuses to stay with the husband of her parents' choice she is usually able to get another because she is not forced into an association repugnant to her ; but if she were to refuse her husband's brothers, her will would be disregarded and she would be forced to accept them. A widow is likewise expected to marry one of her brothers-in-law. Such a marriage, although not compulsory, is socially preferred. Should she refuse to marry any of them, she has to surrender to them all the property left by the deceased and must even give them the jewels given her by her late husband. The child belongs to the husband of the woman irrespective of his biological paternity, yet a man calls the children of his brother by the same term as he uses for his own children.

A man has sexual access to all the sisters of his wife. If a newly married couple find that they are not compatible, the husband may exchange his wife for one of her sisters. The sororate, though preferred, is not however compulsory.

The Kotas were the aboriginal artisans who provided the Todas, the Badagas and the Kurumbas in the Nilgiris with iron tools, wooden utensils and pottery. In addition, they served as professional musicians to the other tribes and later took to farming. All these economic activities necessitate co-operation among the brothers in any one family. The Kotas live in a joint-family in which the equality of all brothers is recognized and accepted. They till the fields together and share the harvest in equal parts. Similarly, they divide the various tasks to be done, one brother acting as a herdsman, others as blacksmiths, and others working in the fields or as musicians. The proceeds of their labour are pooled and each brother enjoys an equal part of the total income. When the paternal inheritance is to be shared, it is parcelled out equally among the sons. There is thus an absolute economic equality among them.

The sentiment for joint living is so strong among the Kotas that the brothers, even when they do not live in one household, render economic assistance to any brother who is in need. If a man suffers any misfortune, it is his brothers who come to his aid, who cultivate his land, do his craft work, care for his family. A Kota proverb says: 'If a man has no brothers, he has no strength of arm.' But there is also a sharp awareness of the rights of each brother. Each must have an equal share in everything they do or gain. It is a right which is invariably asserted, and quarrels among brothers about sharing the work of the smithy, the division of property, distribution of inheritance, etc., are known to be numerous and vehement. Identification with the brother-group does not wipe out a man's very lively sense of his own status as an individual in the family.

Professor Mandelbaum explains this practice of sharing wives among brothers on the principle of the equivalence of brothers which seems to operate in almost all aspects of Kota culture, and that has been the reason, according to him, why polyandry among them still flourishes when their economic, religious and political institutions have been affected by contacts generated by the arrival of the English. We would like to point out in this connexion that the common rights in woman do not appear to be asserted with the strength and fervour with which an individual asserts his claim on the work and income of the family. As a matter of fact, in the realm of sex a system of preference or priority is evidently pursued. Again, the Kotas seem to prefer the cross-cousin marriage. Quite often the sister's husband and the wife's brother is the same man. Common sexual rights in woman are associated with sororate. The common right does not amount to joint husbandship, as is indicated by the preferential right of the husband over the woman and his fatherhood of the children born of the woman. Each brother is a husband of one woman and at the same time he exercises his common sexual right in his brothers' wives. The Kota marital system reflects an evolution of marital rights into monandry, retaining at the same time the earlier practice of the elder brother marrying a woman and others sharing with him conjugal rights which perhaps they were entitled to over their cross-cousin.

To sum up, polyandry has been found with the joint-family among many communities in India but in different contexts and with different significance. Many communities have Pāṇḍavas as their gods or the tradition of Pāṇḍava polyandry to sanction their own usage of polyandry.

5

POLYGYNY

Polygyny is that form of union in which a man has more than one wife at a time. Plurality of wives obviously tends to stress and strengthen man's dominion over woman, more often and with greater ease than either polyandry or monogamy; and it has wider prevalence than either of them. In India the pattern has persisted right from the Vedic times to the present. A Vedic passage discusses the possibility of polyandry and polygyny in a way that shows that, while the former is unnatural, the latter is most natural. While polygyny was thus socially approved, the Vedic ideal of marriage favoured monogamy. In the wedding hymn in the Ṛgveda the marriage tie is hailed with reverence and mutual conjugal fidelity is emphasized. Even in the Atharvaveda consistency in conjugal affection is earnestly solicited. This tradition of monogamy finds expression even in the Manusaṁhitā: 'Let mutual fidelity continue until death. This may be considered as the summary of the highest law for husband and wife. Let men and women united in marriage consistently exert themselves hat (they may not be) disunited (and) may not violate their mutual fidelity.'[1]

In spite of this ideal of monogamy royal personages seem to have had more than one wife. In the ceremonial rites four wives are recognized and their status is defined by the words used for them. These wives are called *mahiṣī* (chief wife), *parivṛktī* (influential), *vavatā* (one in personal favour), and *pālāgalī* (daughter of a *pālāgal*, the lowest court official). We have also a Brahmanic tradition of Manu having ten wives and Cyavana a number of maidens as his wives. Even the god Indra is several times alluded to in the Ṛgveda as having a number of wives.[2] One need not however suppose from such legendary or casual references that the Vedic Aryans accepted it as a social ideal. This is confirmed by explicit and categorical aversion against it in the post-Vedic era in which the Brahmin writers always regarded polygyny as an exceptional practice, even though it was theoretically approved. It is said by Āpastamba that a man whose wife is willing and able to perform religious rites and who bears a son to him need not marry a second wife. It is only when she is deficient in one of these qualities that he should take another, (but) before he kindles the fire of the Agnihotra. The need of a male child was felt so passionately by the writers of this period that a second marriage to get one was advocated and has been until today admitted as desirable on that ground. Manu enjoins: 'A barren wife may be superseded in the eighth year, she whose children die in the eleventh.' Kauṭilya also allowed a second wife to a man whose wife proved barren for eight years, who had stillborn children for the first ten years of marriage or who gave birth to female children only in the first twelve years, and then added that if a wife was superseded for any other reason the man was to be fined 24 paṇas. The superseded wife was given not only her property, *strīdhana*, but also a gratuity.[3] What makes this disapproval the more significant and meaningful is that it came from writers who in theory substantiated polygyny by defining hypergamous marital relations between the different *varṇas*. Dharma and progeny, particularly the male child, thus dominate the Hindu mind and determine the desirability of supersession and bigamy. They also provide rationale for a second marriage on the death of the first wife.

Manu ordains that 'A twice born man versed in the sacred law shall burn the dead body of the wife of an equal caste, who dies before him, with the sacred fire used for the Agnihotra and with the sacrificial implements. Having given the sacred fire to her, he should marry again and enkindle the fire anew.' As religious rites could be performed only in the company of a wife, a widower had to marry again to fulfil his religious

bligations.[4] Although polygyny was socially accepted, the
deal of monogamy was a restraining influence on its prevalence.
The number of wives, even if a man was polygynous, was limited
o two.

Manu writes: 'One year let the husband live with a wife who
ates him; but after that period let him deprive her of her pro-
perty and cease to stay with her.' 'She who drinks spirituous
iquor, or is of bad conduct, who is not in accord with her
usband, who is diseased or wasteful or who is ferocious should
lways be superseded.' Supersession of wives on such trivial
rounds may have been considered to give a man sufficient
pportunities for enlarging his harem. But was supersession so
asy in practice? Manu enjoins: 'She who, though having been
orbidden, drinks spirituous liquor even on auspicious occasions
r festivals or goes to public spectacles or assemblies shall be
ined 6 kṛṣṇalas.' Similarly, 'A sick wife who is kind (to her
usband) and virtuous in her conduct may be superseded (only)
ith her own consent and must never be disgraced.' These
assages must suggest that a wife who drank spirituous liquor or
ho was diseased was not necessarily or easily superseded by
er husband; much less could a man supersede a wife merely
ecause she was wasteful or in ill accord with him.

The view that in spite of Manu's specific admonition for
upersession of a wife she was not easily superseded is strength-
ned by the fact that even for such gross misbehaviour as
dultery supersession was not prescribed. For adultery Manu
erely prescribed confinement to one apartment of the house
nd performance of the penance prescribed for males com-
itting adultery. In this he was following the old tradition
hich persisted so long after him. According to Gautama, an
dulteress has to perform penance for one year but she is provid-
d with food. According to Vasiṣṭha, the wives of Brahmins,
ṣatriyas and Vaiśyas who commit adultery with a Śūdra may
e purified by a penance in case no child is born (of the inter-
ourse). It is only when a child is born of adultery that they
re not purified by penance. Both Manu and Gautama have
ondemned adultery with a Śūdra male in very strong terms,
nd yet Vasiṣṭha is very sympathetic to an adulteress.
ājñavalkya's opinion was in conformity with that of Vasiṣṭha:

'A woman becomes pure from adultery on her next monthly period, but if she conceives in adulterous intercourse she may be abandoned.' And Vijñāneśvara comments: 'The wife is to be abandoned only if she is in adultery with a Śūdra ; the abandonment consists in not allowing her to participate in religious rites and conjugal matters and not in casting her away in the streets. She is to be kept aloof, guarded in a room, and is to be given food and raiment.' For an adulteress, Yājñavalkya prescribes dirty clothing, bare maintenance and lying on the ground. She is treated with scorn and she loses her status. Nārada gives more or less the same rule for an adulterous woman. Vedavyāsa says: 'A wife who is guilty of adultery should be kept in the house, but void of her rights of association in religious and conjugal affairs and of her rights over property, and should be treated with scorn ; but after her monthly course following the act of adultery the husband should allow her the usual rights of a wife.'[5] If a wife who had committed adultery was provided for and was allowed to resume her authority and rights as a wife after her next menstrual period, it is too much to suppose that a wife who was a little quarrelsome, rebellious or harsh was superseded. That Manu has idealized man's dominion over woman rather than referred to the practice of the day, is borne out by Vasiṣṭha's rule of supersession which discards only that wife who has intercourse with her husband's pupil or guru or who attempts to kill her husband or who commits adultery with a man of a degraded class. Yājñavalkya has likewise stated that a wife who is caught in adulterous intercourse or who is guilty of abortion or killing her husband or of some heinous sin can be superseded.[6] In view of this attitude of Vasiṣṭha, and especially of Yājñavalkya, it may be concluded that supersession was practised only occasionally and for very serious offences.

Supersession being more of the exception than the rule Āpastamba's dictum to live with one wife represents the normal practice. Kauṭilya, as a legist, prescribed a penalty for forsaking one's wife on any other ground except that of securing a male child, and Āpastamba, following the Brahmanic legislators, prescribed that a man forsaking his wife should put on the skin of an ass with the hair turned outside and beg alms from seven houses, saying, 'Give alms to him who forsook his wife.' This disgraceful punishment, said to last for six months, must have been a strong deterrent to the exercise of the right of supersession.[7] In view of this trend in the post-Vedic and in the early Smṛti period, polygyny, though recorded in the Vedic tradition and in the life of the Vedic personalities, need not be regarded as a prevalent form of union.

In the Vedic period, 'while there are a few traditional examples of Kṣatriya girls being married to Brahmins, there is not a single example where a Brahmin girl has married a Kṣatriya. Though the Kṣatriyas sometimes gave their daughters in marriage to Brahmins, yet they seem to have had an objection to marrying girls from even prosperous families of the two ower orders.' In the Dharmasūtras, Śūdras form a group apart, and a Śūdra is left to himself as far as his personal affairs are concerned. He is debarred from all privileges accorded to he *dvijas* and is condemned outright. With this attitude, connexion with a woman of the Śūdra class could not have been ooked upon with favour, though it was not completely prohibited. A woman of the Śūdra class was regarded as meant only or enjoyment and not for the furtherance of any higher purpose. Again, the Brahmins had become more or less endogamous by the beginning of the Dharmasūtra period. This endogamy was stressed for racial and ceremonial purity by the Brahmins in their own case. They could not have easily stopped ccepting girls from the other three *varṇas*, but to show a disavour to such unions they evolved a rule of *savarṇa* status. n the place of the old rule given in the Mahābhārata that the ons of a Brahmin born of the wives of the first three *varṇas* re Brahmins, Baudhāyana declares that the offspring of a male f a higher class and a female of the next lower class is *savarṇa*, e. of the *varṇa* of the father. Gautama admits the issue of a rahmin male and a Kṣatriya female as a *savarṇa* but refuses to ccord this status to the progeny of a Kṣatriya male and a aiśya female. Gautama further says that it is only a virtuus son born of wives of equal class and married in accordance ith the approved rites who sanctifies the father's family. audhāyana recognizes a son by a wife of equal class alone as *piṇḍa*, and in consonance with this attitude he varies the share of a son in the patrimony according to the caste-status of the mother.[8]

In spite of the fervour of the Brahmanic legislators for endogamous union, they institutionalized union outside one's *varṇa* in the *anuloma* and *pratiloma* rule of marriage. According to this rule, a Brahmin can marry a woman from his own *varṇa* as well as from the other three *varṇas*. A Kṣatriya can have his wife from his own *varṇa* and from the two other lower *varṇas*. A Vaiśya can have only two wives, and a Śūdra only one from his own *varṇa*. The marriage of a man of a lower *varṇa* with a woman of a higher *varṇa* was called *pratiloma* and was strongly condemned. But there again it was the union of a Śūdra male with a Brahmin woman that was marked out for strong condemnation, and this attitude explains why adultery, instead of being condemned as such, was condemned only when the male offender was a man of the Śūdra *varṇa*. The Śūdra offender was threatened with being devoured by dogs in a public place or with burning on a red-hot iron cot.[9]

In order to know the exact significance of this rule of *anuloma* and *pratiloma* marriages we may now try to understand the Brahmanic attitude towards the wives of different *varṇas*. Manu observes that for the first marriage of a twice-born, a wife of the same *varṇa* is recommended; for those who, through desire, proceed to marry again, females from lower *varṇas* are approved. Twice-born men who in their folly wed wives of a low *varṇa* soon degrade their families and their children to the state of a Śūdra. For him who drinks moisture of a Śūdra's lips, who is tainted by her breath and who begets a son on her, no expiation can be thought of. The manes and gods will not eat the offerings of the man who performs rites in honour of the gods, of the manes, and of the guests, chiefly with (a Śūdra wife's) assistance. A son by a Śūdra wife is called *pāraśava* because '(though) alive he is a corpse and hence a *pāraśava* (a living corpse)'. The son of a Śūdra wife is said to be entitled to one tenth of his patrimony even when his father has no sons by wives of other *varṇas*, the rest of the patrimony being inherited by other male heirs. And even that much portion can be denied to him. 'A son of a Brahmin, a Kṣatriya and a Vaiśya by a Śūdra wife receives no share of the inheritance.' 'Whatever his father may give to him shall be his property.' Gautama, before Manu, wrote: 'A son by a Śūdra wife even if he is obedient receives provision for maintenance out of the estate of a (Brahmin) deceased without a male issue.' Yājñavalkya omits a Śūdra wife altogether for a *dvija* and consequently recommends three wives to a Brahmin, two to a Kṣatriya and one to a Vaiśya. Consistently he provides rites only for a Kṣatriya or a Vaiśya bride in *anuloma* marriage and omits the *pāraśava* son in his list of the secondary sons.[10] It is clear from the way Manu has referred to relations with a Śūdra wife and the privileges of a son born in wedlock with her that, though at that time marriage with a Śūdra wife was not completely out of vogue, it was looked upon with such disfavour that, immediately after Manu, Yājñavalkya could ignore the possibility of such a marriage.

While a Śūdra woman was desired more for sex gratification than for other wifely qualities, wives from other *varṇas* could not be so degraded, as the three *varṇas* represented culturally as well as ethnically a more or less homogenous group distinct from the Śūdras. Yet distinctions among the wives of different *varṇas* were pointedly brought home by certain disabilities in respect of the privileges granted and of the differences in marriage rites. The ceremony of joining hands is prescribed only in marriage with a woman of the same *varṇa*. A bride from other *varṇas* would not take the hand of her husband; but a Kṣatriya wife would take hold of his arrow, a Vaiśya of his goad and a Śūdra of the hem of his garment. As for disabilities, Manu writes: 'Between sons born of wives equal (in *varṇa* and) without (any other) distinction no seniority in right of the mother exists; seniority is declared according to birth. (A son) born of the first wife (though younger in age) shall take as his additional share one bull; the next best bulls (shall belong) to those (who are) inferior on account of their mothers (though older in age). But the eldest son born of the eldest wife shall receive fifteen cows and a bull; the other sons may then take shares according to (the seniority of) their mothers.' Before Manu, Gautama had made some distinctions between the wives of different *varṇas* while dealing with the special portion of the eldest, his views being more or less similar to those of Manu. Manu outlines a new pattern of behaviour towards the wives of different *varṇas*: 'If twice-born men wed women of their own and of other (*varṇas*), the honour and habitation of these (wives) must be (settled) according to the order of the *varṇas*. Among various wives, the wife of equal *varṇa* alone, not a wife of a different *varṇa* by any means, shall personally attend her husband and assist him in his daily sacred rites. But he who foolishly causes that (duty) to be performed by another, while his wife of equal *varṇa* is alive, is declared by the ancients (to be) as (despicable) as a *cāṇḍāla* (sprung from the) Brāhmaṇa (*varṇa*).'[11] The passage clearly shows that the wife from a lower *varṇa* was no better than a mistress, according to Manu. But the fact that this comes for the first time from Manu, and that Manu has attempted to give sanctity to this new pattern by reference to the ancients, proves that in practice wives of the other two *varṇas* were not very sharply distinguished. Manu's pattern was adopted by Yājñavalkya and by Viṣṇu, the latter saying: 'If he has several wives of different *varṇas*, the wife of his own *varṇa* enjoys the privilege (of performing the religious duties) even though she is the youngest. If he has no wife of his own *varṇa*, or if the wife of his own *varṇa* is absent, the wife of the next highest *varṇa* usually occupies the next place; but a Śūdra wife shall always be excluded from this privilege.'[12] In spite of the Dharmasūtras and Manusaṁhitā sanctioning the polygynous tradition and recommending hypergamy in their theory of *anuloma* marriage, the social ideals of the time worked more against hypergamy than for its preservation, and might have hastened the process of endogamy. The question then is, Why did the Brahmin legislators advocate it? It must have helped considerably the endogamous tendency of the Brahmins, which, as Ghurye has shown, found expression during their stay in the Gangetic valley. In addition it sought to fix permanently a social hierarchy in which the ascendancy of the Brahmin over the Kṣatriya was categorically asserted. The rule of *anuloma* and *pratiloma* marriages has greater significance for the caste structure of Hindu society than for the marriage pattern of the Hindus at this period in their social history. Its significance for the marriage pattern lies in the fact that the social hierarchy provides the basis, and the *anuloma* theory divine sanction, for future hypergamy in India.

Professor Hutton in his zeal to understand Hindu institutions and practices as a product of the patrilineal Aryan culture and the matrilineal non-Aryan culture reads even in the theory of *anuloma* and *pratiloma* marriages the impact of the two cultures. According to him, the son of a Śūdra father and a Brahmin mother was condemned as a *cāṇḍāla* because he was a son with no status. The Śūdras being matrilineal, he could not be affiliated to his father's group. The Aryans being patrilineal, his mother could not give him status in the Aryan family.[13] But how are we to concede that the Śūdras, who obviously belonged to the non-Aryan group, were matrilineal when we have many non-Aryan tribes with a patriarchal family organization? And *pratiloma* also included a son by a Vaiśya father and a Brahmin mother. Such a son obviously could not have been left without any place in any family, the union being one between two patrilineal groups. Again, *pratiloma* marriage is the counterpart of *anuloma* marriage, and any explanation given for one must explain the other also. And Hutton's so-called explanation fails to do that. It is therefore gratuitous.

Hypergamy being accepted as the social ideal of Brahmanic culture, it has, with the growth of the endogamous character of caste and prestige determined by social hierarchy, become a more widely distributed pattern of marriage. It is known to exist among some Brahmin castes such as Kulin, Audich, Khedaval and Anavils, and among non-Brahmin groups such as Marathas, Rajputs, Leva Patidars of Gujarat and Nambudiri Brahmins of Malabar.

Among the Rarhi Brahmins of Bengal there are four groups: Kulin, Siddha-srotriya, Sadhya-srotriya and Kasta-srotriya. The Sadhya- and Kasta-srotriyas are endogamous groups, while the other two are hypergamous, the Kulin marrying into the first three groups and the Siddha-srotriya into the second and the third. Because of prestige attached to these social groups in caste hierarchy, polygyny among the Kulin Brahmins of Bengal not only came to stay but assumed such scandalous proportions that one can hardly believe the accounts given of it. Babu Abhaya Chandra observed: 'I know of two Kulins, one of whom married about 60 wives, and the other upwards of 100. Each of these men had a book in which he entered the names of villages where he married as well as the names of the fathers of the wives married. . . . It is not infrequently the case that fathers and sons and husbands and wives meet as perfect strangers to one another and become overwhelmed with shame when their mutual relations are known.' The condition may have been exaggerated here, yet its scandalous character has been testified to by another Bengali, Babu Girindra Nath Datt: 'It is still in full force in East Bengal, where such an abominable practice of having many wives still exists.' Risley was informed by another Bengali of a Kulin Brahmin having more than 50 wives.[14]

Among the Anavils there are two groups, Desais and Bhathelas, of which the latter are supposed to be of lower status. A Desai would never think of giving his daughter to a Bhathela in marriage, and in practice the Desai group is endogamous. Again, the Desai group is composed of internal circles of 'prestige' families according to the villages to which they belong. Even when the Desais form an endogamous group, those of 'prestige' villages will only grudgingly give their daughters in marriage to the Desais of 'lower' villages.

The Patidars have also divided themselves on a village basis. Charottar has a high status and the Patidars of Charottar receive daughters from the surrounding area but do not give their daughters there, and their claim is recognized by the people concerned. Social prestige is supposed to have been attained by some of the families of Desai-Patidars on account of some honour or privilege conferred on their ancestors by the ruler of the land for services and on account of benefits supposed to have been derived by the caste from their ancestors. Recently, wealth, or rather the way wealth is expended, has been taken to determine the status of a family. In Charottar, as Pocock puts it, the status of a family 'is gauged by the degree to which it asserts membership of a larger kin group'. He 'who can afford to feast his relations to, say, five or six generations over a period of years elevates his family to a position from which in the future a new line will spring, probably to be known after his name.'[15]

The village basis of hypergamy is an interesting phenomenon. Although its genesis is not known in the case of the Anavils, Pocock's delineation of it among the Leva Patidars of Charottar is of interest. A village was a member of a circle of seven villages and occupied a position fairly low in the hierarchy. The fathers of the seven villages had, for some time past, been reluctant to give their daughters in the eighth village because (*i*) as the village had suffered severe economic hardships, its standard of living was low ; (*ii*) widow-remarriage was commonly practised ; (*iii*) of other reasons of a similar nature. The effect of this reluctance was gradually a condoned violation of caste endogamy in the eighth village and, since the fathers were unable to pay high dowries, the girls had been given to Patidar boys living outside the circle and in lower villages. What was thus forced upon the unfortunate village became the chief ground for its formal expulsion from the circle.[16]

The Marathas, on the other hand, have prestige families either because their ancestors rose to power during the Maratha ascendency or because they had or have connexion with ruling Maratha houses. Some Rajput families are held in higher social estimation than others either because of the amount of landed property they possess or territorial sovereignty they can boast of. A Rajput chieftain would marry his daughter to another chieftain or a big Rajput landlord, and a landlord would never think of giving his daughter to one who does not possess more or less an equal amount of land.

Thus there are apparently different principles which operate in regulating hypergamy among different castes, but in essence they all represent one basic principle, namely, social prestige. Another feature to be noted is that among many of these castes hypergamy only means 'marrying up', and is not always associated with the polygynous type of household that we find among the Kulins.

Nambudiris do not practise hypergamy in the sense in which we have understood it so far. The Nambudiri generally allows his eldest son alone to marry into his own caste. His other sons, although not legally disallowed from marrying into their own caste, generally contract alliances with Kṣatriya or Nair women. As there are few males to marry within the caste there is a surplus of females, and this encourages polygyny. All the girls are not, however, absorbed, and many of them are forced to be spinsters for life. That this is a recurrent social phenomenon is proved by the fact that the funeral rites current among the Nambudiris make a special provision for a Nambudiri spinster's marriage before her cremation.

The practice of hypergamy not only adversely affected the position of woman, which was already low according to the Hindu social ideal, but brought in its train problems of no mean significance. Although the wife may not have been treated as a mere chattel as is suggested by the observations of the Bengali writers, she could not have been looked upon as a partner in marriage. In the absence of a proper understanding between the two, the husband would be prepared, even on a small excuse, to supersede his wife. The main concern of the man is found in many of these hypergamous castes to have been the exploitation of the woman and her people economically, and ill-treatment, humiliations and abuse were the natural corollaries. Every parent desired his daughter to the married into the highest social group to keep up or to add to his prestige, and this made him acquiesce in these abuses. When a number of offers were made to a single person he naturally insisted on his terms and the bridegroom-price would go on swelling. A Bengali graduate expected his spouse to be 'adorned with jewellery and gold ornaments from head to foot, a cash demand of at least Rs 4,000, besides the personal dower for the bridegroom's embellishment called *barabharan*, from a girl's father. . . . If the father has a misfortune to possess a girl of somewhat dark complexion or in any way ugly, or deformed, the demand may run to Rs 15,000. Add to this the numerous other items of expenditure to be incurred by the bride's father on, before, and after marriage, and the result is simply ruinous to him.'[17] The exactions of an Anavil or a Patidar in no way differed from those of a Bengali, and since the second world war the bridegroom-price is reported to be increasing.

A person, in order to get a son-in-law from a higher level in the hierarchy, is often prepared to pay an extravagant sum as dowry or *vankada.* The indirect result of this is that the fathers of the girls in the higher level are forced into competition with ambitious lower groups. Others naturally look to the dowry of their sons to meet their obligations in finding husbands for their daughters. The vicious circle starts; the amount of dowry goes on increasing, and hypergamy is perpetuated. Legislation against dowry will have little effect until it is visualized in this perspective.

The bridegroom-price also affects the wife in her husband's home. As every marriage brings a substantial sum, one would naturally be tempted to contract a second and a third marriage just for its economic utility. Such marriages in succession are not usual, but the possibility of their occurrence cannot be ruled out. This affects the first wife in the love and affection her husband bears for her. Hypergamy has its repercussions on the life of the group too. When there is haste in securing a boy for one's daughter from a higher group, marriage at an early age is the inevitable result. Child-marriage is favoured by the Hindus, and this situation tends to lower the age of marriage still further. When virgin girls are thus readily available one seldom thinks of marrying a widow. Widow-remarriage is not allowed by high-caste Hindus, and hypergamy perpetuates enforced widowhood as a social necessity in the case of the higher caste groups, providing at the same time favourable conditions for its practice in the lower groups.

Another significant implication of hypergamy in relation to the group is to be found in the disproportion of the sexes. Females from a lower group or groups are drained away to higher groups for marriage. The lower groups are consequently faced with a paucity of girls for marriage unless there is a very high proportion of female children. The anomaly of such a situation can only be resolved by either polyandry or enforced celibacy for males in the lower groups. As polyandry is not a favoured pattern of marriage with the Hindus, the more likely result would be enforced celibacy, which in practice means diverting the sex appetite into undesirable channels. The males would thus either have to resort to prostitutes or carry on loose sex relations with the women of the group. The higher groups, on the other hand, find a disparity of sex in favour of females. All the girls cannot be absorbed in marriage even when polygyny becomes the usual norm. Some are thus left spinsters for life. Guru Prasad Banerjee has noted that a large proportion of old maids is found among the Kulins ; and it is also found on a wide scale among the Nambudiris. Another alternative to celibacy is exchange marriage in which very often sisters are exchanged directly or in a triangular device. In the absence of a sister a near relative is exchanged. This exchange marriage is generally known as *satu* and until recently was practised by the Bathelas and some of the Brahmin castes in Gujarat. The irony is that the caste practising *satu* is looked down upon for this practice and the lower status of the group is thus perpetuated. Hypergamy may also in some cases tend to evolve the practice of paying bride-price or *pulla* in the lower group as against the practice of dowry it encourages in the higher group. The repercussions of hypergamy thus vary from group to group.

In view of these demands and the air of superiority on the part of the bridegroom and his family having perpetuated to the present time, a daughter is always viewed as a liability. 'The birth of a daughter is considered to be the penalty of sins committed in a former state of existence.' A female child does not usually receive the same attention and affection that is bestowed upon a male child in a Hindu family, and this attitude tends to intensify into indifference and coldness towards her. While some castes practising hypergamy have stopped at the intentional neglect of a female child, others have gone to the extent of practising female infanticide. Infanticide is generally known to have been a practice with the Rajputs, and there is little doubt that other castes like the Anavils and the Kulins resorted to it under the stress of economic pressure. Reports of Anavil families in which the daughter or the father or the whole family has committed suicide when means to meet the economic obligations of the marriage of the daughter have not been available, are fairly widely current.

Polygyny among the Nambudiris has affected the status of woman in a different way. They are confined to *purdah* and cannot make public appearances. They have Nair women to be their representatives whenever they have to make a public appearance for the performance of a ceremony or any other reason. Not only are the women thus secluded and restricted in their enjoyment of life but rigorous demands are made on their fidelity. If a Nambudiri female is suspected of adultery she has to confine herself to special quarters behind the main house. A court sits to investigate the crime, and the woman is questioned through her Nair representative. If the guilt is proved, she is excommunicated. She is lost to the family, and her death rites are accordingly performed by the family.[18]

Adultery has never been severely punished in the Hindu scriptures, and when the Nambudiris are said to have parted from their brethren on their southward march, adultery was considered a very mild lapse on the part of a woman and was more often condoned than punished. Even *purdah* does not seem to have figured in the life of a Hindu woman at that time. One is surprised to find these rigid norms with the Nambudiris in the same environment in which the Nair women are absolutely free. Can they be regarded as their strong reactions to the unpleasant freedom enjoyed by the Nair women? One can understand that a people holding chastity as an ideal of woman would seek to guard more jealously the modesty of their women by the imposition of restrictions ; but these inhibitions could not have been so severely intensified unless the peculiar marriage rule of the Nambudiris had not made marriage a privilege of a few women only. This does not mean that the seclusion and fidelity of the Nambudiri woman are the products of the Nambudiri marriage practice ; but one cannot deny that in that practice lie the potentialities for the intensification of the conventions.

There is another aspect relating to the moral tone of the group life affected by the practice of hypergamy to which reference may now be made. As girls are easily available in marriage, and in fact are thrust upon boys still to begin their education in secondary schools, the boys pay little attention to education. The present writer knows of a large number of Anavil boys, his schoolfellows, who were not only completely indifferent to their studies but wasted their school hours in loafing and cultivating bad habits. Education is one of the standards for eligibility in marriage among high-caste

Hindus; but as it was not necessarily required among the Anavils, especially among prestige families, education used to be regarded as a burden by the boys and was contemptuously ignored. These boys also inherited from their parents and grown-up persons of the village bad drink habits. Illiteracy and drunkenness were in fact the outstanding marks of these boys, and have ruined many Anavil families, within the writer's knowledge, in the course of the last 30 years. This is not a peculiarly Anavil trait; it is in varying degrees a consequence of hypergamy in many other castes. In short, both higher and lower groups suffer physically as well as morally from the practice of hypergamy.

When polygyny has thus been found to be harmful, both to the individual and to the group, how is it that it has persisted in Hindu society? The Hindu religion categorically demands the marriage of a girl before she reaches puberty. It is not the concern of the girl or her parents alone; it has become the concern of the caste as a whole, and even at times, of the local group. If a girl is not married at the proper time the question is discussed not only by the members of the caste to which she belongs, but even by the members of other castes who reside in the same locality. It becomes a scandal which neither the girl nor her parents can put up with. If a girl is to be married she should be married in a way that is in conformity with the family pride. Every parent naturally cherishes an ambition to rise through marriage in the social estimation of the caste. In the case of village circles, each village strives to raise itself either in company with its fellow villages or alone. Social prestige, or, to be exact, the race for a higher status, has contributed largely to the perpetuation of hypergamy over centuries.

Education was once supposed to be a potent factor in minimizing the tyranny and practice of hypergamy. But it has since been found to aggravate the situation in two ways. Educated young men insist on a fabulous sum as bridegroom-price; and in some castes the few educated families look upon themselves as the *élite* and far above the other members of the caste. They manage to contract marriages among themselves, and in course of time this small section becomes hypergamous, receiving from but not giving girls to the other section of the caste. Risley has illustrated this process in the case of the Pods, a cultivating and fishing caste of Bengal.

Enforced celibacy in the lower group, the humiliation to which the parents of the girls are often put and the contempt with which they are treated, abnormal exaction from them as legitimate and minimum demands—all have conspired to bring about a convulsion in the lower groups to rise against the practice of hypergamy. Among the Anavils, as education spread among the Bhathelas and declined among the Desais, the injustice of hypergamy was all the more keenly felt by the Bhathelas. In addition, the rich Desai families because of their extravagance, drink habits and lack of education became slowly impoverished, and the simple, hard-working and thrifty Bhathela peasant, official or primary teacher was slowly accumulating his surplus and within a few years was in possession of land. Thus came into existence a small intermediary group above the poor Bhathelas and below the high-born Desais, marked out by education and small landed property. It was this group which refused to tolerate the haughtiness and impudence of the Desais and stood up against hypergamy. The Bhathelas are now on the way to strict endogamy ; but because of the long tradition of hypergamy among them, they still have sentiments in its favour. Like the Desais, they too have now begun to form among them prestige families on the basis of the land they own. Those Bhathelas who used to exchange sisters in marriage have recently begun to expect bridegroom-prices on the model of the Desais, and their exactions, *vankada,* are becoming as exacting as those of the Desais.

We have outlined in detail the changing marriage pattern among the Anavils of Gujarat to show the likely repercussions of the growing tendency on the part of every group to be endogamous. Hypergamy is arrested endogamy, and the increasing strength of endogamous sentiments serves as a restraining influence on the prevalence of hypergamy.

Hypergamy in India has not always been associated with polygyny. Though polygyny was allowed by the Hindu ideal of marriage it was resorted to only when no male child was born to the first wife within the first few years of marriage. Such cases were bound to be few and far between. It is only among the Patidars of Kheda district that polygyny is regarded as a mark of affluence, and a Desai-Patidar used to have generally two wives. But in spite of sporadic occurrences it was not a widely distributed pattern.

The limiting condition of the sex-ratio for the practice of polygyny has checked its distribution but cannot eradicate the sentiments in favour of it. So long as these sentiments persist, and so long as the religious belief and the social system of caste provide sanction for it, the ideal of monogamy cannot be completely realized. Legislation is now employed as a weapon against polygynous marriage. The first attack against bigamy was made by the Special Marriage Act of 1872. It was a condition of valid marriage under this Act that neither party must have a husband or wife living at the time of marriage. The Act also provided that such a marriage could be dissolved under the Indian Divorce Act of 1869. The Act was of little avail because the party seeking advantage of the Act had to declare that he belonged to no religion and to no caste. As this declaration was found to be a serious handicap to the success of the law it was dispensed with in the Amended Act of 1923. But even the Amended Act failed in its purpose because the parties to a marriage under this Act had to sever their connexion with their joint-family. Succession to the property in these cases was regulated not by Hindu Law but by the Indian Succession Act of 1865. The man so marrying was further deprived of the right of adoption. The net result was that the advantages conceded to the woman under this Act remained unrealized until the fourth decade of the present century.

The Madras Nambudiri Act of 1933 prohibits a man from taking a second wife unless the first wife has been afflicted with an incurable disease for more than 5 years or has not borne him any child within 5 years of marriage or has become an outcaste. Marriage in contravention of this Act is punished with a fine which may extend to Rs 1,000. To the people governed by Marumakkattayam law who have the matrilineal family organization in the south-west of India, bigamy is prohibited by the Madras Marumakkattayam Act of 1933.

The Baroda Bigamy Act renders bigamous marriage void, unless the wife is suffering from leprosy or such other loathsome disease, or she has become a lunatic since marriage and even after waiting 3 years there is no hope of her recovery. In 1946 the Bombay Government passed the Bombay Prevention of Hindu Bigamous Marriages Act. According to this Act, bigamy is allowed only if the spouse has been continually absent for a period of 7 years and has not been heard of as being alive by his relatives during that period. The Act further provides that the fact of having one wife is to be made known to the second wife before marriage. Marriage contracted in contravention of this Act is void if it is contracted in the State or if the party is domiciled in it. The offence is cognizable, and the punishment is imprisonment for 7 years plus a fine. Following Bombay State, the Madras Government passed the Madras Hindu (Bigamy Prevention and Divorce) Act 1947, enabling a wife to sue for divorce if her husband took a second wife. The Saurashtra Prevention of Hindu Bigamous Marriages Act of 1954 made Hindu bigamous marriage void and penal under Section 494 of the Indian Penal Code, as did the Madhya Pradesh Prevention of Hindu Bigamous Marriages Act of 1955. Further, in Madhya Pradesh the guardian of a minor offender and the abetter are punished with imprisonment up to six months, or a fine, or both. The tribes were exempted from the operation of the Act, however, in recognition of their practice of bigamy.

What was done in certain States has now been extended throughout the whole of India by the Hindu Marriage Act of 1955. It is now laid down as one of the conditions of a sacramental marriage that neither party has a spouse living at the time of the marriage. Any marriage which contravenes this condition shall be void. The Act further provides that any person who during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been dissolved by a court of competent jurisdiction, contracts another marriage after the commencement of the Act shall be subject to the penalties provided in the Indian Penal Code for the offence of bigamy. Bigamous marriage contracted before the commencement of the Act is said to be voidable on petition. The Act provides, on the other hand, for judicial separation or dissolution of marriage before contracting marriage with another wife. Judicial separation may be conceded on the ground of desertion by a spouse, without reasonable cause and without the consent or against the wish of the other, for a continuous period of not less than 2 years; a virulent form of leprosy for a period of not less than 1 year; venereal disease in a communicable form and continuously unsound mind for a period of not less than 2 years; sex relations outside marriage; cruelty that would evoke the apprehension of the sufferer's stay with the other being harmful or injurious. Judicial separation may be a ground for dissolution of marriage if the party has not resumed marital intercourse for a period of 2 years or upwards after a decree or order for judicial separation.

Islam recognizes polygyny, but has changed the ancient Arab usage by limiting the number of wives to four at a time. Muhammad further preached that the wife was entitled to maintenance according to her status and in proportion to the means of her husband. The probability of polygyny was thus minimized on economic grounds. The Quran may be said to further restrict the possibility of polygyny by enjoining upon the husband to treat all his wives equally. According to the later commentators, equality means equality in love and affection. And as it is not possible, they argue, for a man to love all his wives equally and treat them with the same affection, Islam has negatived polygyny. But obviously this is a far-fetched reading of the Prophet's mind. One can say at the most that within the limitations imposed upon him as a reformer he tried to uphold the ideal of monogamy and discountenance the practice of polygyny. The Prophet's commands apart, polygyny is not within most people's means and therefore is infrequent in practice.[19]

6

SELECTION IN MARRIAGE

THE QUESTION OF SELECTION IN MARRIAGE MAY BE CONSIDERED from three points of view, namely, the field of selection, the party to selection, and the criteria of selection. The field of selection is restricted in two ways. Among some tribes and communities there is a preferential code, enjoining marriage with a particular relative as more desirable, or at times even obligatory. There are likewise certain restrictions prohibiting marriage with certain relatives or between certain groups as they are considered incestuous or undesirable. There are further restrictions of an endogamous character enjoining marital union within the bounds of a certain group. Exogamous restrictions in India are defined in terms of sib, totem, territorial group, *gotra* or *sapiṇḍa* relationships.

The Hindus have both endogamous and exogamous rules limiting the selection of a mate. The Hindu community is divided into a number of castes which are endogamous groups ; and in practice the caste is again divided into a number of subcastes, each of which is further subdivided into a number of sections. These sections are in some cases further divided into subsections as *vīśā* or *daśā* or in terms of locality. To illustrate, among the Vaiśyas there is a caste called Vania which is subdivided into sub-castes *lād*, *moḍh*, *poravād*, *nāgar*, *śrīmālī*, etc. *Moḍh* is further divided into *adaljā*, *goghavā*, *māndalia*, etc. Similarly the sub-caste *lād* is divided into two sections, *vīśā* and *daśā*, and the *vīśā* is again demarcated as *ahmedabadi*, *khambhati*, etc. according to the locality of habitation. A caste is thus divided into a number of groups each of which is more often endogamous. The multiplicity of groups thus restricts the choice of a mate within the bounds of a few families varying in number from 50 to 300. Among some sub-castes or sections of sub-castes; there is what is called *gol* or *ekdā*, which limits the field of selection for that section within a defined local area. The residents in villages find that their girls are taken in marriage by persons living in towns and cities, but they do not receive girls from the cities as wives for their sons. They are thus forced to form a marriage circle of their own, which is known as a *gol* or *ekdā*.

Until recently breaches of caste endogamy were punished by excommunication from the caste. Caste exercises a tremendous influence over its members as it touches a man's life in all his social relationships. An excommunicated individual found his life miserable as all services in the village were refused to him. In towns, where services could not be refused, the rigour of excommunication was brought home to the recalcitrant member by refusing to him the co-operation of the members of the caste on such occasions as marriages and funerals when the need of co-operation is keenly felt.[1]

The Special Marriage Act of 1872 allowed a man to contract legal marriage with a person not belonging to his own endogamous group. In addition to the exacting demands made by the Act, caste sentiments were responsible for the fact that few availed themselves of the Act's provisions. This is borne out by the fact that as late as 1918 V. J. Patel failed to carry through the Central Legislative Council his Hindu Marriages Validity Bill to legalize intercaste marriage among the Hindus, although it was a permissive piece of legislation. It also explains why the Special Marriage Act was not enthusiastically responded to, even after being divested of its exacting demands—the Special Marriage Act as amended in 1923. It is only recently that public opinion in favour of broadening the endogamous group has gained ground and legislation has legalized intercaste marriage. The Baroda Government enacted in 1938 the Caste Tyranny Removal Act prescribing action against caste councils for excommunicating any member of the caste for any caste offence including breach of endogamy. The Aryasamajist, who believes in the reorganization of caste into the four *varṇas* of old, ignores sub-caste groups as endogamous groups for marriage. The Aryasamaj Marriage Validity Act of 1938 legalized intercaste marriage among Aryasamajists in British India. By the Hindu Marriage Disabilities Removal Act of 1946 *sagotra* marriage and marriage between different subdivisions of the same caste were validated. The Hindu Marriages Validity Act, 1949, enacted that 'no marriage between Hindus shall be deemed to be invalid or ever to have been invalid by reason only of the fact that the parties thereto belonged to different religions, castes, sub-castes or sects'. However, the moral force of caste is still so great, and Hindus are still so caste-minded, that it is questionable whether legislation will break the ice.

Intercaste marriage is nowadays a much discussed subject. Fifty-one per cent of 513 university graduates interviewed by the author expressed their willingness to give their children in marriage outside their own caste. Only one third were against this departure from custom. C. S. Patil in his survey of the lower salaried classes in the city of Bombay found that while 51 per cent stood for marriage outside caste only about one-fifth were against it. What he further found was that, while in the case of persons above thirty-five years of age 40·6 per cent favoured and 38.6 per cent resented it, the respective percentages in the case of persons below thirty-five were 56 and 14.[2] Patil's observations do not merely show the change in terms of generations but also indicate the change that is sweeping over those in the Hindu community who are not usually educated beyond matriculation. This is indeed an encouraging trend in the march towards the ideal of a casteless society. But a broader analysis of contemporary caste consciousness in Hindu society lends doubts to the validity of any optimistic assumptions arising from opinion surveys.

With the advent of modern industrial organization, two major changes in the caste system have taken place. One is the freedom in the matter of choice of occupation and the consequent extensive shifting of the old occupational boundaries of caste. The other is that, with the growth of industrial cities, people in large numbers have flocked to them. Under pressure of necessity, eating in hotels has become a normal practice in cities, although it is a serious break with the old ideal of purity. Railway travel is another factor mitigating caste distinction in the matter of food and drink, and in increasing social intercourse among members of different castes. This process, extending over a long period, has by now weakened much of the rigidity of the social code, so much so that there is today a general feeling that caste has died out or is dying out very rapidly.

While accepting the position that caste exclusiveness has been substantially reduced, it should not be overlooked that food and social taboos have not been affected to the same degree among different castes, or in the same caste in different areas. Even in the big cities the effect varies according to the strata of the population. Further, the weakening of these restrictions has not led *pari passu* to the disruption of the caste hierarchy. As a matter of fact, there is a struggle among castes to improve their relative status in the hierarchy, each caste below challenging the position of the caste above, and at the same time being unprepared to concede the same right to the one below it.

Even in respect of the authority of the caste council, although the British courts and legislation have robbed them of much of their old authority, they still command in practice the obedience of members within their jurisdiction. The present opposition to caste councils is not so much to the system itself as to the individuals and families who have either monopolized power or are believed to have mismanaged the affairs of the caste.

In the light of this analysis the present situation may be summed up thus: (*i*) The change in parts of the caste system is wrongly interpreted as a change in the whole system. (*ii*) The weakening of some features of caste is not so great as is generally believed, for it has not produced any over-all effect on the system as a whole. (*iii*) The area of social intercourse has widened not as a result of the acceptance of the idea of social justice among the different groups, but as a result of the inability of the higher groups in the hierarchy to maintain the *status quo*. In other words, the change is not from any conviction but is due purely to the pressure of circumstances. The change is in behaviour and not in ideology.[3]

The pattern of caste in the twentieth century differs from that in the nineteenth century. Many castes have built their own residential buildings or sanatoria, maintain hospitals and wards, run schools and hostels, and the benefits of these and similar foundations are even today primarily confined to the members of the individual caste, and sometimes to the endogamous sub-caste. These and many other castes who have no such foundations have funds from which tuition fees, books, scholarships, medical aids, housing and food subsidies, etc. are provided to their members. Although many people contribute nowadays to relief funds organized by the States and even on a national scale, caste still remains primarily the centre round which the individual's philanthropic activities revolve. It is understandable, therefore, that two-thirds of the university graduates interviewed by the author should believe that caste charities are desirable, and only about one-fifth be against them. C. S. Patil, while endorsing this appraisal of the disposition by castes, has shown that the attitude of the younger generation does not materially differ from that of the older generation. Accustomed to living and thinking in terms of caste, most people naturally look to caste for any material help, and it is significant that we find the charitable activities of caste expanding in both extent and magnitude in recent times.

(Recently many castes have begun to organize picnics and annual gatherings at which musical and dramatic entertainments are provided. In response to the author's inquiry, 130 graduates said they participate in such socials, 27 being prevented from doing so by considerations of time, place or money. Only 20 condemned them as communal activities and 10 expressed no interest. The interest shown by a large number of educated boys is a significant pointer to contemporary caste feelings. The potentialities of such socials are suggested by several factors. They are generally organized for the members of the sub-section of a caste alone. Very often there is unhealthy competition between the various sub-sections of a single caste group in outdoing each other in the provision of entertainment as well as in the grandeur and ostentation of the social. The organization of such socials thus cuts across the trend toward the amalgamation of sub-sections into major sub-groups. Further, the *rasas*, dramas and other items of the social provide an opportunity for the young men and women of the sub-section to mix freely and thereby to develop familiarity, warmth and understanding, which, under favourable circumstances, grows in course of time into an intimacy conducive to marriage. The endogamous character of the caste is thus maintained and perpetuated by intentional manœuvring. The growing popularity of such socials is shown by the fact that a caste organizes various associations—Yuvaka Mandala (Young Men's Association), Mahila Mandala (Women's Association), etc.—which are patronized by the young and the educated, and each of which provides its members with one or two socials a year. Another popular and successful activity of some castes is the publication of a caste magazine reporting in the main the activities of the caste in different areas and thereby unconsciously yet surely forging caste solidarity loyalties.

The economic, emotional and psychological appeal of caste can perhaps be better appreciated when the incidence of the various caste activities is assessed by sample, as is done in the following table. The figures represent the number of graduates admitting to the existence in their castes of the various activities mentioned. For purposes of abbreviation F. = Foundations, C. = Charity funds, S. = Socials and M. = Magazines. The number of activities admitted to be operative in their castes by graduates helps to assess the intensity of caste-feeling within that group.

Group A		Group B		Group C	
F. *and* C. *and* M. *and* S. ...	62	F. *and* C. *and* M. ...	25	S.	27
F. *or* C., *and* M. *and* S. ...	43	F. *or* C., *and* M. ...	25	M.	46
F. *and* C. *and* S. ...	33	F. *or* C. ...	88	S. *and* M. ...	25
F. *or* C., *and* S. ...	23				
	161		138		98

Group A consists of those graduates (45 per cent of the total nterviewed) who testify to intense caste-feelings. The caste-eelings of the graduates who constitute Group B (35 per cent) s less intense, and of Group C (19 per cent) less still. The survey suggests that caste loyalties are still very strong even among educated people.[4]

Factors which tend to accelerate the tempo of intercaste marriage are (*i*) the opportunities provided to young men and women to get together in co-educational schools and mixed clubs and (*ii*) mixed employment in factories, schools, commercial firms and government offices.

Of the graduates interviewed, 36.4 per cent of those who favour the idea of marrying their children into any caste would permit co-education only at the pre-adolescent stage. To mix boys with girls of between 14 and 18 in the same class is considered dangerous by 48 per cent of those who would not like to restrict the choice of the marriage partner within the bounds of caste. Of those who welcome intercaste marriages, 53·7 per cent agree to co-education at the college level but some of them—7 per cent—do not want the boys and girls to mix. Until recently, seats for female students in colleges were often reserved in the first one or two rows. Special retiring rooms for girls are found in many colleges. The opening of separate colleges for females—Nanjibhai Kalidas Mehta Mahila Vidyalaya started at Porbunder in June 1955 and Sheth Balabhai Damodardas Arts College for women started at Ahmedabad early in 1956—bear out the prejudices and apprehensions of the Hindu community towards co-education.

Mixed clubs are favoured by 57 per cent of the graduates welcoming intercaste marriages, but hardly a third of this number have any experience of a mixed club. A few (13.2 per cent) are apprehensive about the healthy moral tone of society being maintained with the growth of mixed clubs. Only 26 per cent of those who favour the marriage of their children outside their caste have realized the role such mixed clubs can play in the healthy growth of an individual. While the beneficial influence of mixed clubs is realized by only a minority of educated people in this country, the majority have supported the organization of clubs and socials on a caste basis only, thus undermining the main benefits of the mixed club. The only opportunities for young men and women to mix are in the sports club and in sporting activities in schools and colleges.[5] Against this background of surviving caste prejudice intercaste marriage will take a fairly long time to establish itself.

It would be as well to clear up at this point one possible misconception with regard to intercaste marriage. Intercaste marriage is generally understood to mean marriage within a broad sub-group formed by an amalgamation of older subsections. It would not be wrong therefore to infer that in expressing a desire to marry their children outside caste, many persons have predominantly in view a large caste group and not marriage irrespective of caste consideration, and such marriages are indeed on the increase. A few marriages do take place outside the bounds of caste, but the general attitude of the members of the castes concerned in such a union is either of non-opposition, tolerance or indifference. It is in fact a negative approach; a positive inducement to such marriages is as yet lacking.[6]

The exogamy of the Hindus has two aspects. The first, *sapiṇḍa* exogamy, prohibits marriage between persons related to each other within certain generations on the father's and the mother's side. The other, *gotra* exogamy, prohibits marriage between members of the same *gotra*. The rule of *gotra* exogamy is given in the Gṛhyasūtras and its first appearance is consequently postulated in the period of the Brāhmaṇas. As regards its nature, Karandikar observes: 'The word *gotra* in the Ṛgveda times, although it did not imply the later sense of family, was slowly gathering round it the idea of a group. The word definitely came to mean family in the Chāndogya Upaniṣad.'[7] Can we assume that in the period of the Brāhmaṇas marriage generally took place beyond the family circle of three or four generations?

A passage in the Ṛgveda contemplates marriage with the mother's brother's daughter or the father's sister's daughter. A similar idea is given in an abstruse passage of the Śatapatha Brāhmaṇa. Macdonell and Keith interpret the Brāhmaṇa passage as allowing marriage even with a daughter of one's ather's brother. There is nothing in the passage to object to his interpretation. Harisvami, who commented on this passage n the eleventh century, states that the practice of marry- ng into the third generation prevails among southerners, who narry their mother's brother's or father's sister's daughters, vhile the people of Saurashtra allow marriage in the fourth eneration. First, Harisvami is not correct in applying the assage to two different peoples; and, secondly, his contempo- ary, Hemachandra, records that marriage in the third genera- ion was known in the Saurashtra of his day.[8] Härisvami's nterpretation does not therefore assist the proper understand- ng of the passage. (Baudhāyana records practices peculiar to he south and to the north. Of the practices peculiar to the outh, one is marriage with a daughter of the mother's brother r father's sister. His view is that 'he who follows (these prac- ces) in any other country than where they prevail commits n'. According to him, then, cross-cousin marriage would be llowed only beyond the Narmada as a peculiar cultural trait f the people of that region. He also records that Gautama, nother Sūtra-writer, would not allow it even as a local usage hen it is opposed to the tradition of the *siṣṭas*. Manu writes: He who has approached the daughter of his father's sister or f his mother's sister or of his mother's brother, shall perform lunar penance.) A wise man should not take as his wife any these three because they are relatives. He who approaches em sinks low."[9] We shall show later on that the family ganization of the Hindus was undergoing a change at this eriod in their social history, whereby the mother's relatives ithin three generations had come to be recognized as kin. Ianu's prohibition of marriage with cognates in the third gene- tion is based, as he himself said, on this recognition of kinship ith them. It is quite clear that in the Dharmasūtras and Ianusaṁhitā marriage of cross-cousins, which was allowed in e time of the Brāhmaṇas, had come to be discredited and held as proper only in those parts of the country where it uld be justified because of the peculiar social conditions.

One of the Sūtra-writers, Vasiṣṭha, would have liked marriage take place in the fifth generation on the mother's side and the seventh on the father's.) Gautama, another Sūtra-writer, allowed marriage in the eighth generation from the father's side and the sixth from the mother's. None of the Sūtra-writers except Gautama prescribed any penance for the non-observance of *sapiṇḍa* exogamy. Gautama alone declared that one marrying a *sapiṇḍa* relation of the father and the mother becomes an outcaste.[10] Gautama is thus ahead of his contemporaries both in widening the scope of exogamy and in penalizing its breach. But the way Manu tried to prohibit marriage of cognates in the third generation clearly shows that exogamous rules on the basis of blood kinship were in the process of formation. Neither Vasiṣṭha nor Gautama therefore can be looked upon as representing the actual practice of the day. Ghurye has tried to show that Kṛṣṇa married Satyabhāmā, a relative in the fifth generation on the paternal side. Akrūra, standing to her in exactly the same relationship, wanted to marry her. In the genealogy given in Harivaṁśa, Satyabhāmā happens to be the fourth, instead of the fifth, in descent. Similarly, 'the marriage of Sutanu, the sister of Ugrasena, with Vasudeva is a marriage between persons of the same family who are related with each other in the fifth or the sixth generation through males on the paternal side'.[11] This tradition of marriage in the fifth or sixth generation, and probably even in the fourth, in the house of the Yadavas, which has been held up as respectable in Indo-Aryan history, is significant. In spite of the rulings of Vasiṣṭha and Gautama, it is quite probable that marriage in the fifth generation was not thought improper. This is borne out by another fact: though the Smṛti-writers like Yājñavalkya and Nārada prescribed exogamous restrictions on the lines of those laid down by Vasiṣṭha and Gautama, Paiṭhīnasi recommended the avoidance of five generations on the father's side and three on the mother's as an alternative.[12]

If we try to understand Vasiṣṭha's rule, we shall find that on the mother's side he enunciates the rule given by Manu. On the father's side, instead of prohibiting marriage beyond the family circle of four generations, which must have become the practice by his time, he, as an idealist, widens its bounds. A man is, on the one hand, in close contact with his two or three ascendants either as living members of the family or as persons to whom he is bound to offer *piṇḍa*-offerings, and, on the other hand, with his two descendants who are again the living members of the family. The family circle as such is a circle comprising five to six generations. Marriage outside the family may therefore be extended to marriage beyond six generations on the father's side. Paiṭhīnasi does the same, with this difference, that he takes a family unit of three generations, which is found to be a family unit from very early times.[13] That these were the ideal rules is shown by the fact that marriage with a *sapiṇḍa* girl was never condemned by the Smṛti-writers. One may conclude that the restrictions of *sapiṇḍa* exogamy primarily implied marriage beyond the family, i.e. four generations on the father's side and three on the mother's. Other rules extending the family circle on the father's side were enunciated but not rigidly observed.

While the writers of the Dharmasūtras have been so rational in restricting the choice of a partner beyond the family, they have made much of *gotra* exogamy. Vasiṣṭha would not allow marriage with a girl who belonged to the same *gotra* and recited the same *pravara*. Gautama lays down that marriage is allowed with a girl who does not recite the same *pravara*. According to Karandikar, the association of *pravara* with *gotra* is found only in the Dharmasūtras and not in the Manusaṁhitā. Manu did not likewise regard *sagotra* marriage as constituting a sin, serious or minor. The Sūtra-writers, on the other hand, are divided on the point. While Āpastamba and Vasiṣṭha do not prescribe a penance or a penalty for the violation of the rule, Baudhāyana prescribes a penance when such a marriage fructifies and Gautama condemns it as a sin as serious as the violation of the Guru's bed. It would follow, then, that Manu's rule of exogamy was loose and elastic and he considered its observance a subsidiary detail only of a valid marriage.[14] Some of the Sūtra-writers, however, first expanded its scope by linking *gotra* with *pravara* and making it thereby a sort of religious fraternity in place of its original character as a family group, and then insisted on its observance under threat of penance. That this transformation of *gotra* was still a process rather than a concept may be testified by the fact that Manu, coming after the Dharmasūtras, does not give this new meaning of *gotra* and that the *pravara* organization in the

Dharmasūtras was so loose that the lists of *pravara ṛṣis* attached to the different *gotras* given by the Dharmasūtra writers differ very widely.

The Smṛti-writers prescribed penance of a very serious nature for any breach of the rule of *gotra* exogamy. The commentators were even more strict: they not merely condemned *sagotra* marriage but degraded the status of woman in such a marriage and at times even of the children born of such a marriage. 'If a twice-born marries a girl of the same *gotra* or reciting the same *pravara*, he shall renounce her and perform the lunar penance.' 'If the breach is intentional the husband becomes an outcaste and so does his son.' 'The woman in such a marriage is *cāṇḍālī*. If one unintentionally cohabits with a *cāṇḍālī*, he becomes an outcaste and he has to observe a penance for 12 years. If he intentionally lives in the company of a *cāṇḍālī* for a long time he actually turns himself into a *cāṇḍāla*. If he cohabits with her even for a single night he must observe three years' penance.'[15] Thus the commentators of the tenth to the twelfth century A.D. recommended the social boycott of partners in marriage and of their issues too, and prescribed severe penance for them before being taken back into their own social group. And the writers of the digests followed in their footsteps.

Gotra ceased to be a family group from the time of the Sūtra period, when it came to be linked with the *pravara* which indicated a school of ritual or learning to which a person belonged. In reciting the *pravaras* the sacrificer recited the name of the school of ritual he had followed in the method of performing the sacrificial rite.[16] In the hey-day of communal sacrifices, this *pravara* kinship was a living bond. But by the time of the Smṛtis and commentaries, when sacrifice was reduced to a mere daily offering in the domestic fire, *pravara* kinship had begun to lose much of its original intensity. *Gotra* organization remodelled on the basis of *pravara* thus in course of time became reduced to a mere formality, as it had little bearing on the actualities of life. Its continuance as a social group was facilitated by the fact that the Brahmin writers accorded privileges and defined rights in terms of different social groups, including *gotra*, *sapiṇḍa*, *kula*, *sagotra*, etc. But the *gotra* group being the widest kin-group, it was rarely that a person's rights and duties as a member of that group came to be exercised. In the circumstances one fails to understand how exogamous restrictions based on *gotra* not merely continued to operate but were tenaciously adhered to down to the fourth decade of the present century. It has been contended elsewhere[17] that 'at the close of the Ṛgveda period there is a clear-cut line drawn between the Kṣatriya and the Vaiśya on the one hand and the Brahmin on the other hand. The Brahmins utilized every opportunity to impress upon the minds of the Kṣatriyas that they were superior to them and the religious life afforded the best opportunities for the purpose. The Kṣatriyas and the Vaiśyas were accordingly made to realize that they had no *pravaras*, and they had to borrow the *pravaras* of their Brahmin teachers to perform the rites, because "gods do not accept the offerings of those who have no descent from a *ṛṣi*". Thus the Brahmin utilized the *pravara* organization, and consequently linked it with the *gotra* organization, as a very effective weapon in his hands to establish his mastery and power over the valiant Kṣatriyas.' It was necessary to insist on the strict observance of this rule of *gotra* exogamy so long as the Kṣatriyas offered resistance: this must have continued till about the seventh or the eighth century. The norms once formed continued by sheer conservatism until they were shaken off by an upsurge in the community. The Hindu community came to be very powerfully dominated by the Brahmins once Śaṅkarācārya unfurled the banner of Hinduism and threw Buddhism overboard once and for all. There was no reason for anybody to question the *gotra* organization as it operated in the life of the Brahmins only. And the Brahmins tenaciously adhered to it as it was their cherished heritage and denied to all other *varṇas*. The *gotra* organization being formal, its grip on marriage was felt by the Brahmins too, but there was none with the boldness and conviction of a reformer to condemn its persistence as a marriage-bar.

In Bombay State it was only by the Hindu Marriage Disabilities Removal Act that the restriction of *gotra* on marriage was removed. 'Notwithstanding any text, rule or interpretation of the Hindu Law or any custom or usage, a marriage between Hindus which is otherwise valid shall not be invalid by reason only of the fact that the parties thereto (a) belong to the same *gotra* or *pravara* or (b) belong to different subdivisions of the same caste.' The Hindu Marriage Act of 1955 has rightly upheld the Bombay legislation by removing the endogamous restriction of caste and the exogamous restriction of *gotra* from the conditions of a valid marriage. It is, however, curious that the Act lays down as a condition of a valid marriage that 'the parties are not *sapiṇḍas* of each other unless the custom or usage governing each other permits of a sacramental marriage between the two'. The violation of this rule renders marriage void. According to the Act, then, marriage between two persons related within five generations on the father's side and three on the mother's is void unless permitted by local custom. We have already seen that *sapiṇḍa* exogamy implied in practice marriage outside the family of four generations. In view of the fact that the family circle, in modern days, is generally a unit of three generations, the limit, if any limit is ever needed, should be three generations only. As a matter of fact, in these days when individual choice of a partner in marriage has come to be recognized as necessary and desirable even by the older generation, any artificial shackles in the form of exogamous restrictions are outmoded. This legal narrowing down of the prohibited degrees does not prevent any person avoiding five or even more generations if he so chooses, but it removes unnecessary restrictions which have no cultural or biological significance.

Baudhāyana recorded that cross-cousin marriage was a peculiar custom of the southerners and as such it was a valid marriage in that part of the country. As a matter of fact cross-cousin marriage seems to have prevailed over a large area in northern India also. And among some of the cultural groups it was a preferential form of mating. In the tradition of the Hindus we find that Arjuna married his mother's brother's daughter, Subhadrā, and so did his son, Abhimanyu, and his brother, Sahadeva. Kṛṣṇa also married his mother's brother's daughter, Rukmiṇī, and so did his son, Pradyumna, and his grandson, Aniruddha. Kṛṣṇa also married Bhadrā and Mitravindā, and both are his father's sister's daughters. The house of the Yadavas has association with Saurashtra. We find from Hemachandra that marriage in the third generation was known to the people of the Surāṣṭra of his day, and Abhayatilakajani, in the middle of the thirteenth century, confirms it. Ghurye, during a tour of Saurashtra, was able to elicit the existence of two exogamous groups among the Kathis who seem to have given the name Kathiawar to Surāṣṭra. They are divided into two exogamous groups, Sakhayat and Auratiya, each comprising a number of clans. The Kathis prefer marriage with the mother's brother's daughter. Marriage of cross-cousins among the Kathis is thus associated with the dual organization of society for marriage. Another interesting fact about the house of the Yadavas is that it holds a very reputable position in the eyes of every Hindu. This pattern of marriage was therefore never questioned. It was only when the rules of *sapiṇḍa* exogamy forbidding marriage beyond six or seven generations on the father's side and three or four on the mother's came to be repeatedly preached by the Smṛti-writers, that some uneasiness was felt over the inveterate habit of the Yadavas of marrying their cross-cousins. It is said in Bhāgavata Purāṇa that Rukmi sanctioned the marriages of his sister's son and grandson with their mother's brother's daughter to please his sister, though he knew them to be unlawful. According to another interpretation, Yayāti cursed his son, Yadu, that his descendants would be so wicked that they would marry their mother's brother's daughter and inherit through the mother. The author of Tantravārtikā tried to explain away Subhadrā's marriage by saying that though she is spoken of as a sister of Vāsudeva, she need not have been his real sister. She was probably the daughter of the sister of Vāsudeva's mother or the daughter's daughter of the sister of the father of Kṛṣṇa's stepmother, Rohiṇī.[18] These explanations are interesting. They clearly indicate that by the seventh century marriage with a cognate in the third generation had become so undesirable that the old traditions in favour of it had to be explained away by saying that such marriages were either conditioned by circumstances or that they were not really marriages with one's cross-cousins.

Besides the house of the Yadavas other royal families seem to have indulged in this form of marriage as a preferential mating. In one of Bhāsa's plays, 'King Kuntibhoja of Vairantya in Malva is described as having married the sister of the king of the Sauviras while Kuntibhoja's sister married the latter king. Another sister of Kuntibhoja was married to the king of Kasi. Kuntibhoja's daughter is sought after by both the king of Sauvira and of Kasi, for their respective sons. Kuntibhoja decides to offer his daughter to the son of the king of the Sauviras on the ground that he was doubly related, being not only his sister's son, but also his wife's brother's son.' Daṇḍī in the seventh century depicted a situation which shows that it was thought quite proper in the royal family of Malva to marry one's mother's brother's daughter, and when a person was denied his proper spouse he was found to wreak his vengeance. He also narrates an episode in the life of a Kasi prince which culminates in the prince marrying his mother's brother's daughter. The marriage is desired on the ground that 'the girl's mother when once she had lost in a game of dice to Kantimatī, had promised that if a daughter was born to her, she should be the wife of Kantimatī's son'. King Brahmadatta of Benares wanted to marry his only daughter to another prince to extend his circle of influence and consequently did not give her in marriage to his sister's son who was heir to his throne. The young persons however managed to get in touch with each other and the king had to celebrate their marriage.[19]

Marriage with the mother's brother's daughter was the standard type of union with the Eastern people among whom Pali literature mostly developed. 'For two generations in the family of Sakyas, those of Buddha and his father, there were marriages only with a person's mother's brother's daughter.' This was due to the exchange of sisters for two generations. In a Jātaka story, a woman carrying her crippled paramour passed off as a very chaste lady of exemplary wifely behaviour because she had given the people to understand that the cripple was her father's sister's son. A Brahmin youth, by name Ānanda, who was in love with his father's sister's daughter, who had joined the Buddhist order, managed to get an opportunity of catching her secretly and alone, and enjoyed her in spite of her protestations.[20]

In one of the tales in Maharastra Prakrit, Bambhadatta, the son of the Panchala King Bhambharaya, marries his mother's brother's daughter. In a Prakrit work belonging to the latter half of the tenth century Pahamjana and his sister Bandhusundarī 'promised each other that their children shall marry mutually to implement the affection that they bore to each other'. And the marriage later took place. 'Satyabhāmā is represented by Somaprabhācārya, who wrote about the end of the twelfth century as joking with her brother and asking him to give his daughter in marriage to her son, if she should have one.' Later on, the cousins married.[21]

To sum up, cross-cousin marriage outside the families of the Yadavas and the Pāṇḍavas appears to have been rare in Brahmanic tradition and literature. 'The people of Surastra, the royal houses of the Vidarbhas, the Kosalas and the Kasis and of the Sākyas and the people of Magadha indulged in marriage with a mother's brother's daughter and even with a father's sister's daughter.' In other words, outside the 'middle region', *madhyadeśa*, the outlandic Indo-Aryan peoples—those of Magadha, Kasi, Kosala, Malva, Vidarbha, Saurastra, Sauvira and Matsya—continued to marry cross-cousins, preponderantly the mother's brother's daughter, even when it ceased to be a pattern of a *siṣṭa, ārya*, in the *madhyadeśa*. 'Still later and in recent and contemporary times its prevalence among speakers of Indo-Aryan languages has become very sporadic except amongst the Marathi-speaking peoples amongst whom, with two exceptions, it has been universally allowed and even expected.' Of the two exceptional cases one at least, the Chitpavan Brahmins, seems to have stopped marriage with a cross-cousin only recently. Among them, 'as among many other castes a sister bars the entry of her brother and his newly wedded wife to their house after the marriage and does not allow them to pass in unless the brother promises that his daughter shall be married to her son'.[22] Another thing that strikes us in the foregoing account of cross-cousin marriage is that it is not always conditioned by a particular social fact. While in some cases cross-cousin marriage is associated with inheritance passing to a sister's son, in others it takes place to implement affection between brother and sister. While in some cases it is associated with the dual-organization of society for marriage, in Brahmanic culture it was tolerated when kinship through the female was not stressed. A marriage pattern is thus determined in different parts of the country and among different peoples by the social conditions prevailing. It is, therefore, a disputed point whether one can think of a uniform pattern of marriage for the whole of India so long as different social conditions continue to persist in different parts of the country and influence norms and institutions in those regions.

Cross-cousin marriage seems to have been a characteristic feature of the Dravidian peoples. In the kinship terminology of all three principal languages of this family, there is a clear indication of cross-cousin marriage. Rivers stressed some social facts among the tribes supposed to be Dravidian which become intelligible with the assumption of cross-cousin marriage. Ghurye has tried to show, on linguistic grounds supported by two exogamous groups found amongst some Dravidian tribes, that the Dravidians must have had the dual-organization of society for marriage.[23] Among many tribal peoples of India kinship terminology clearly points to cross-cousin marriage and among many it still continues to be a preferential form of mating. It is quite possible that even among them it was the product of dual-organization.

Besides this form of preferential mating we have reason to believe from the kinship terminology of the Nagas of Assam that at one stage they must have practised marriage with a sister's daughter.[24] This form of marriage is also found among the Telugus, the Kannadigas and the Tamilians. The Hindu Marriage Act of 1955 has allowed cross-cousin marriage to continue as a local custom, but has prohibited marriage between uncle and niece. Such a marriage is declared void. If the local custom is held valid in one case, there is nothing to show why it should be held invalid in the other. And if biologically there is nothing wrong in the marriage of children of brother and sister there is nothing to justify the prohibition of marriage of the children of two brothers or of two sisters or of an ascendant and descendant which the Act proposes to include under 'the degrees of prohibited relationships'.

Among Muslims, marriage with a father's brother's daughter is more or less obligatory. The father's brother's daughter is called *bint aam*. the first wife. It is considered an insult, and in a certain measure an offence, to refuse to accept one's father's brother's daughter in marriage. In the polygynous household of a Muslim she is said to be the principal wife, irrespective of age or period of marriage. It seems that the pre-Islamic Arabs favoured this marriage because of their pride of lineage and their notion of purity of blood. Muhammad forbade marriage with the father's widow, one's stepmother, which was allowed by Arabs. Perhaps in continuing *bint aam* marriage Muhammad found a means to contribute to family solidarity. He had assigned to daughters and other females a specific share in the family property. He had also declared dower, *mahr*, to be the property of the wife. Woman was thus in possession of some property over which she had real control, but on her marriage outside the family this property would pass to another family. If, however, marriage was contracted within the family the property would continue to remain within the family, although in the hands of the female. Whether Muhammad had this in view or not while continuing *bint aam* marriage, the preferential form of mating did help to save the family property from being dissipated.

Muslims also recognize in practice, though not in theory, endogamous rules. The two broad sections, the Sunnis and the Shiahs, do not intermarry. Also, among the Sunnis there are various groups—Vohras, Tais, etc., which are endogamous. Further, a Saiyid prefers to marry a Saiyid, a Shaikh a Shaikh, a Mughal a Mughal and a Pathan a Pathan. Many of the lower castes, especially the occupational classes, are strictly endogamous and marriage outside the closed group entails excommunication. Some castes have endogamous subdivisions too.[25]

The Hindu legislators discussed eight modes of acquiring a wife, of which four were said to be *dharmya*, i.e. according to *dharma*, and the others non-*dharmya*. Of these four modes of undesirable union, two were called *rākṣasa* and *paiśāca*. They pertained to the abduction of a woman by force or her seduction when unconscious. They are rightly condemned and can never be approved of as proper modes of marriage. The third is called *gāndharva*, marriage by choice. Selection of a husband by a princess in what is known as *svayaṁvara* was known from very early times and continued for a long time. But it was not always marriage by choice. Sometimes the princess was given over to a person who succeeded in performing a particular feat; at others, princesses were abducted by force. The attitude of the Brahmanic writers towards this mode of marriage was not very favourable, and even Kālidasa has shown his disapproval by referring to Śakuntalā's marriage with Duṣyanta in a satirical tone when, through the curse of Dūrvāsas, she found herself in trouble. The last mode of marriage was called *āsura*, and it was the sort of contract where money was paid as the bride-price. The approved modes, on the other hand, were those in which a girl was decorated and was given over by her father to a suitable partner. The main idea in each of these approved modes was that the bride was given as a gift. In other words, it meant that the dominion which the father exercised over a female child from the day of her birth was now transferred to the person who was selected as her husband.[26] This theory of marriage was first discussed in the Dharmasūtras when every opportunity was sought to restrict the freedom of woman. It may consequently be interpreted to suggest that marriage being primarily a gift from the father, it was he who decided to whom the gift should be given. In this idea of marriage as a gift, therefore, there was little scope for woman's voice to prevail in the selection of her spouse. This then was the second barrier in the free choice of a marriage partner.

While selecting a partner the main consideration of the father was to see that the selected spouse did not suffer from any disease and was not deformed. The Dharmasūtras and Manusaṁhitā give a long list of qualities to be looked for in a bride at the time of selection.[27] We fail to understand the exact significance of all these qualities, but the one thing that stands out prominently is that the spouse must come from a family which is known to continue the Brahmanic cultural tradition. It is also insisted that inquiries should be made into the family of the spouse to the extent of five generations on both sides. Family was thus an important factor in the selection of a spouse, and it still continues to have some importance with many Hindus. Nowadays the idea is to ascertain that the family is not quarrelsome, has no history of persons suffering from incurable diseases and is held high in social estimation for its standard of living, material as well as cultural. In the old days the choice was left to the father, and a partner in marriage had little voice in settling it; but marriage did not very often prove unhappy because the parents were fastidious in selecting the spouse from proper families, and the social ideals of marriage and the joint-family organization afforded little chance for clash of interests or ideology.

The choice was and still is further restricted by a social convention whereby among some castes the bride's father has to pay a dowry to the bridegroom. The amount of the dowry is generally regulated by the social and economic status of the bridegroom's father, the social prestige of the bridegroom's family, and the educational qualifications of the bridegroom. A girl's physical beauty or educational qualifications reduce this amount at times, but often this reduction is very meagre. Naturally the girl whose father cannot afford to satisfy the exorbitant demands of the person whom she would like to marry, cannot succeed in securing him as her partner in marriage. On the other hand, a girl may be at times married to an undeserving person when the latter is prepared to marry her with a dowry within the means of her father. Ill-assorted marriages have at times resulted from this practice of dowry. Education, instead of mitigating the evil, has worsened it to a scandalous proportion. Another important influence encouraging the practice is the social prestige attached to a family which pays a very big dowry on the marriage of each of its girls. 'Neither the strenuous efforts of the Maharashtrian literary writers for the last seventy years nor even the immolation of a bride or two, have succeeded in drawing the attention of society to this evil, or in checking the spread of it.'[28] And the same is true for parts of India other than Maharashtra.

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AGE AT MARRIAGE

IT IS SAID IN BAUDHAYANA DHARMASŪTRA: 'LET HIM GIVE HIS daughter, while she goes still naked, to a man who has not broken the vow of chastity and who possesses good qualities, or even to one destitute of good qualities; let him not keep (the maiden) in (his house) after she has reached the age of puberty.' A girl who was not given in marriage by her guardian even though she had reached puberty, was asked to allow three monthly periods to pass and then to contract a marriage on her own.[1] Some of the writers of the Gṛhyasūtras recommended the marriage of a girl who was called *nagnikā*, literally naked. It is not clear what these authors actually meant by that word, but these texts have been interpreted to suggest pre-puberty marriage. And this interpretation is confirmed by a text of the Dharmasūtras: 'The father should give away his daughter while she is still *nagnikā* through fear of her attaining puberty.'[2] But it is very doubtful whether infant marriage was at all practised by the Hindus when these texts were written. On the contrary, the Gṛhyasūtras, while dealing with marriage rites, refer to a rite called *caturthīkarma* which was performed on the fourth day of marriage and which involved the consummation of marriage. A resemblance of the rite survives even today among castes in some parts of India. The rite evidently presupposes that the girl is mature for consummation, which suggests that she has at least attained puberty. Cases must have occurred of girls menstruating while the marriage ceremonies were in progress, otherwise the Dharmasūtras would not have prescribed a purificatory ceremony for such a contingency.[3]

It is said in Manusaṁhitā that a man of thirty may marry a girl of twelve and a man of twenty-four a girl of eight. Similarly in the Mahābhārata the ages of husband and wife are said to be thirty and ten or twenty-one and seven. It is said in Vaikhānasasūtra that a Brahmin should marry a girl who is *nagnikā* or *gaurī*, and defines *nagnikā* as a girl over eight years but below twelve and *gaurī* as one who is between ten and twelve and has not had her menstruation period. It is said in Laugākṣi Gṛhyasūtra that *brahmacarya* for girls lasts till the tenth or twelfth year. According to the Brahmanic works of the early Christian era, a father would feel happy to dispose of his daughter in marriage between the ages of ten and twelve. But these sacred works also enjoin: 'A maiden after attaining puberty may wait for three years; after this period she should seek a husband who is similar to her.' Only, 'the father or guardian incurs the sin of destroying an embryo at each appearance of menses as long as the girl is unmarried after puberty'. But even this is not always true. 'A maiden may rather stay in her father's house even till her death, though she may have attained puberty, but the father should never give her to one who is devoid of good qualities.'[4]

Usually a man devoted twelve years to the study of the Vedas which he began after the initiation ceremony at the age of eight. Accordingly, a man would ordinarily be twenty years or more of age at the time of marriage. We do not know the usual difference between the ages of the husband and wife, but with eight or ten as the age of the bride it would be twelve years or so, and this is apparently unusual. The bride must even on this consideration be above twelve. Kāmasūtra, a contemporary work, records that a wife should be younger than the bridegroom by at least three years.[5] The way in which this difference is referred to suggests that girls were not married at a tender age.

The only conclusion one can draw is that from the time of the Dharmasūtras a trend in favour of the marriage of girls as soon as they reached puberty became conspicuous, though one need not necessarily postulate early marriage as a practice of the day.)

The Mahābhārata, from a number of incidents in the lives of gods and sages and from the records of the life history of eminent epic personages, clearly shows that virginity was not necessarily demanded of a girl. The Dharmasūtra writers, on the other hand, tried to explain away these incidents, which they regarded as moral lapses, by saying that 'transgression of the law and violence are found amongst the ancient (sages), but they are not tainted by it on account of their extraordinary brilliance'. The status of a son of a virgin is lowered ; he is 'born of a low mother'. The Brahmin writers who intended to raise the moral tone of society held up virginity as a virtue in woman and the emblem of a good lady. That virginity becomes one of the qualifications of a marriageable bride is borne out by the fact that even Vatsyāyana, who was not dealing with *dharma*, mentions it. 'When love is fixed upon a virgin who belongs to the same caste and who has been won in accordance with the prescriptions of the sacred laws, then it provides the means of getting lawful progeny, secures a good name in the world and besides obtains the approval of the public.' Such a marriage alone conduces to *dharma*, wealth, children, social contacts, widening of the social circle and *unupaskṛta* pleasure.[6]

Once virginity was regarded as a badge of respectability, it came to be encouraged as a sign of the *élite* and an index to high caste. Consequently marriage would be desired before any scope for suspicion regarding the virginity of a girl presented itself. This explains why girls who have attained puberty are objects of great anxiety and care in the eyes of their parents even today. This extolling of virginity is a conducive factor in the contemporary Brahmanic trend towards pre-puberty marriage, and insistence on it as a requisite qualification of an *élite* marriage has accelerated pre-puberty marriages among the Hindus.

Another contributory factor is the theory of *saṁskāra*. From the time a fœtus is laid, *garbhādhāna*, to the moment of a man's death every stage in his life is marked with some sort of ritual. These religious rites performed a different stages in life are conceived to impart purification, fitness or excellence to the individual concerned. Some of these rites are performed before and after birth, others while undertaking and finishing the course of studentship, and the rest on entering the life of a householder. The *saṁskāras* in the first set are the *garbhādhāna* (ceremony to cause conception), the *puṁsavana* (ceremony to cause the birth of a male child), the *sīmantonnayana* (performed in the seventh month of the pregnancy), the *jātakarma* (performed at the time of birth), the *nāmakaraṇa* (naming the child), *annaprāśana* (first feeding), *karṇavedha* (boring the ear) and *caula* (tonsure of the head). The *saṁskāras* in the second set begin with *upanayana* (initiation) and end with *samāvartana*, the bath taken on the completion of studentship and return from the teacher's house. The third set of *saṁskāras* begins with *vivāha* (marriage) and ends with *antyeṣṭi* (the last rites). While the first set of *saṁskāras* were more of a purificatory nature, the others marked a man's initiation into the higher life and made him conscious of his proper role as a member of the community.

But a distinction was made between a male and a female child in the performance of these *saṁskāras*. 'This whole series (of ceremonies) must be performed for a female child (also), in order to purify the body, at the proper time and in the proper order, but without (the recitation of) the sacred texts.' But the significant difference between a male and a female child is brought out in the next verse: 'The nuptial ceremony is stated to be the Vedic sacrament for women; serving the husband (is equivalent to) the residence in (the house of the) teacher, and the household duties (to) the (daily) worship of the sacred fire.' It is evident that a female child was not considered worthy of all the *saṁskāras*, and the only *saṁskāra* to be performed in her case was marriage. Marriage being the only *saṁskāra* a woman could go through, it was natural that it should have an important place in her life. But for it she is without *saṁskāra* and as such no better than a Śūdra. It is hence that a girl who dies unmarried when she has reached puberty should be united in a sort of marriage with a male of the same caste before she is cremated. It is equated by Manu to the initiation rite of a male child. As one cannot think of an Arya male without the initiation rite one cannot think of an *élite* female without marriage. A story in the Mahābhārata stresses the significance of marriage in a different way. A daughter of Kuṇī Gārga practised severe penance for the whole of her life. She was, however, told by Nārada that, as she was unmarried, she would not go to heaven for all her austerities. Thereupon the woman induced Śṛṅgavat of the Galava family to marry her in exchange for half the merit she had earned by her lifelong austerities. She stayed with him as a wife for a day and only then the door of heaven was opened to her.[7]

Woman is not fit to be independent. At every stage in her life she should be under the dominion of someone, her father, her husband or son. The idea of marriage was the transference of the father's dominion over her in favour of her husband. This transference should hence take place before a girl reached the age when she might question it. This was an additional factor influencing the age of marriage.

Whatever the impelling forces were, the fact remains that the later writers hastened this trend towards early marriage by insistently advocating marriage between eight and ten years, though they would acquiesce if a girl was married on reaching the twelfth year. According to Parāśara, a girl of eight is called *gaurī*, of nine *rohiṇī*, and of ten *kanyā* ; beyond this she is *rajasvalā*. The parents and the eldest brother of a girl who is unmarried when she becomes *rajasvalā* go to hell.[8] The fact that these writers, coming some 500 to 600 years after Manusaṁhitā, insisted on marriage by the time a girl reaches puberty confirms very cogently our view that early marriage was not prevalent in the early centuries of the Christian era. Parāśara marks the real beginning toward pre-puberty marriage because it is he who enjoins that a Brahmin who marries a *rajasvalā* girl should not be spoken to or admitted to a dinner in the same row with other Brahmins. He becomes the husband of a *vṛṣalī*, low-caste woman. Parāśara makes such a marriage an extremely sinful act, and consequently the husband is condemned and socially ostracized. One would, in the circumstances, expect pre-puberty marriage to be normal after the sixth century. Haradatta, however, wrote in the twelfth century: 'In some countries intercouse commenced immediately after marriage.' Nārāyaṇa referred to the same fact among the people of Videha.[9] If Haradatta had in view people following the Brahmanic law, it may be contended that even by the twelfth century post-puberty marriage had not become completely outmoded. With the religious and social sanctions accorded to pre-puberty marriage by Parāśara, child-marriage spread much faster and took deeper root among the higher castes. And once it became a pattern with the Brahmins, it soon tended to become the norm for the Hindu community as a whole. In a society well graded on the basis of purity and culture traits, the tendency of the lower groups to imitate the pattern of the higher in order to raise themselves in the estimation of society was natural.

After the beginning of the Christian era the whole of north India was under the rule of one or other of the foreign tribes which domiciled there. How far the invaders, along with the other non-Brahmanic religions and sects, influenced Brahmanic culture cannot be precisely assessed. But we can point to one development that had slowly made its appearance by the beginning of the Christian era and seems to have assumed alarming proportions by the time the Purāṇas were completed. This was Tantricism, which was slowly evolving into a powerful force contributing to the looseness of the sex morals. By about A.D. 450, Tantric ideas and practices seem to have gained in popularity because Tántricism offered *bhukti*, enjoyment, as well as *mukti*, final liberation, to all alike irrespective of caste, race or sex. 'That low *kaula* who refuses to initiate a *cāṇḍāla* or a *yavana* with the *kaula-dharma*, considering him to be inferior, or a woman, out of disrespect for her, goes the downward way. All two-footed beings in this world, from the *vipra* (Brahmin) to the inferior caste, are competent for *kaulācāra*.' The greatest danger from this quarter came from the circle-worship, *cakrapūjā*, of the left-hand Saktas which 'requires, among other things, an equal number of men and women without distinction of caste or relationship partaking of the five *tattvas*, viz. wine, meat, fish, parched grain, and sexual intercourse'.[10]

Even in the Brahmanic literature of the period we find evident signs of growing sex morbidity. Vātsyāyana in the third century A.D. wrote the science of erotics, and from references he has made to earlier prominent authorities in that science, he seems to have finally systematized earlier works into a compact study. One does not fail, however, to note that 'he exhibits at times to be pornographic'. Amarūka, at the end of the seventh century, wrote an entirely erotic poem, Amarūśataka. Bhavabhūti, coming a little later, gives in one of his dramas 'a scene in which young girls of marriageable age, in conversation with a Buddhist nun, describe the actual feelings of unsatisfied sex desire and their physical marks in the language of the people'. Murāri, coming after a generation or so, introduces into his drama 'a girl friend of the heroine as describing the sex consciousness of the heroine to a male who stands to her in the position of her grandfather, under the cloak of privileged behaviour'. This change in the social tempo, the rising tide of sex obsession, finds bewildering echoes in the erotic sculptures at the Kandārya Mahādeva temple in Khajuraho in the first half of the tenth century and its culmination in Bilhaṇa's Caurīsurata pañcāśīkā, describing illicit love in rather inordinate words, and in the sculpture ot the Sun temple at Konarak in Orissa. This distorted sense of values, this morbid sex interest, exhibited by the artistic creation of the period is perhaps reflected by the Purāṇa-writers when they observe: 'Passion will be the sole bond of union between the sexes.' 'Women will be objects merely of sexual gratification.' To check this tide of sex morbidity it was necessary that the Brahmin writers should cry a halt to the state of moral decadence. On the one hand they advocated ideals of marriage which, they hoped, would counteract this distorted sense of values and, on the other, their best exponent, Śaṅkarācārya, preached, in the ninth century, the unreality of the world and things worldly. He founded his religious centres in famous places of Hindu pilgrimage over the length and breadth of the country and thereby provided an organizational set-up for preaching and inculcating his ideal of asceticism.[11]

Another significant development of the period bears out the impact of this social environ on early age at marriage. The head dress for females was not a trait of Vedic culture but came to be favoured with the spread of the cultural influence of the Easterners. With political and cultural leadership passing again to the Vedic Brahmanic people at the time of the imperial Guptas, the female head-dress as a separate piece of apparel was not greatly in demand. 'The disappearance of head-dress was accompanied by the strengthening of the sentiment for the practice of drawing one portion of the scarf, which has been almost an invariable constituent of the sartorial ensemble of females from the Vedic times onwards, over the head. The purpose of this practice and the social sanction of this sentiment . . . lay in the idea that it was improper for married *élite* ladies to expose their faces to the gaze of strangers in daily intercourse. The sentiment was so deep-rooted and the practice of drawing the portion of the over-head scarf in front of the face was so established that the Sanskrit words for the article of dress used for this purpose proclaim it unequivocally.' These words are *avaguṇṭhana,* wrapper, and *niraṅgī,* extinguisher—concealing the limb *par excellence.*[12]

Though hypergamy was recommended in the Dharmasūtras and the literature that followed, and though marriage between persons of different *varṇas* continued to take place occasionally down to the tenth century, evidently the tendency of every group was to be endogamous. 'The four castes and the other groups are regarded as completely endogamous units, hypergamy being positively discouraged.'[13] This meant the narrowing down of the field of selection for a marriage partner, which in turn impelled the father of a girl to avail himself of the earliest opportunity of finding any boy for his daughter, if he did not want to run the risk of an unsuitable match. The village being more or less an isolated unit, this competition to secure a good partner for a female child was accentuated.

The social ideal of monogamy also contributed to this development towards early marriage. A further impetus was given to it by attaching social prestige. It was a sign of one's affluence, influence or status to get one's child betrothed before she reached the age of puberty. It was a matter of pride and prestige that one's child was sought after at a tender age. Under the operation of these various forces early marriages became more popular, and with the passing of time the practice became so compelling that a departure from it was a matter of social disapproval and even social disgrace. And in the nineteenth century we find that Ramakrishna Paramahamsa married a girl of six, M. G. Ranade a girl of eight and D. K. Karve a girl of nine. The religious sentiments which the pandits, the leaders of society, were ever watchful to exploit for the continuance of this practice, not only made marriage after puberty inconceivable but helped the process, generated by the social forces, of degenerating pre-puberty marriage into infant marriage. Religious, social and psychological attitudes and tendencies thus conspired to make infant marriage a rule and an obligation. TB 164

The lower castes in their imitation of the higher outstripped them by contracting marriage even before the birth of a child. Betrothal of children when they were in the womb and their marriage at an early age was not in their case troublesome as they allowed widow remarriage.

In the reform movement initiated by Raja Ram Mohan Roy
Pg 78 ob in the last century it is natural that the intelligentsia paid special attention to this practice. Ishvarchandra Vidyasagar, who believed not merely in the preaching of reforms but in putting them into practice, formulated a pledge to which he committed himself and which he expected his supporters and admirers to implement. One of the items of the pledge was that he would not allow his son to marry before he was eighteen or his daughter before she was eleven. He agitated for marriage at a rational age, and his strenuous propaganda was not in vain. Though nothing was done directly in the matter, in 1846 a Law Commission was persuaded to make intercourse between husband and wife, below a given age, an offence. Accordingly, the Indian Penal Code of 1860 declared consummation when the wife was below ten years of age as rape and prescribed punishment extending to transportation for life. This does not mean that intercourse at such an immature age was the accepted thing. As a matter of fact it was very rare, and even when girls were married in their infancy they were not sent to the husband's home before they attained puberty. But while on the one hand the sexual right of a husband over

his child-wife was legally defined, on the other extra-marital relations within that age were prevented under the threat of severe punishment.

It may be contended that the Hindu wife, trained since childhood by solemn precepts and overt examples to revere her husband, to obey him meekly and to stand by him always, could hardly have conceived of availing herself of this law even if such cruelty had been perpetrated on her. The legislation would thus appear to have been ineffectual ; nevertheless it did pave the way for fixing the age of marriage at a later date. The law of rape posed for the first time the problem of infant marriage in its grim reality. It gave momentum to the reform movement and encouraged the intelligentsia to organize their second move towards achieving their purpose.

(Malabari saw that infant marriages in Hindu society were not only bad in themselves but led to the wretchedness of widowhood. He therefore made a fervent appeal to the Government in two famous memoranda revealing the gross abuses of infant marriage which he rightly regarded as an evil.)

Owing to the efforts of Ishvarchandra Vidyasagar, remarriage of a widow had become possible under the Hindu Widow Remarriage Act of 1856. But, for obvious reasons, it could not become the practice with the people. The Act itself merely legalized the remarriage of Hindu widows and declared the issue of such a marriage to be legitimate. But this advantage was more or less nullified by the proviso which ran: 'All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without expressed permission to remarry, only a limited interest in such property with no power of alienating the same, shall upon her remarriage cease and determine as if she had then died ; and the next heirs of her deceased husband or other persons entitled to the property on her death, shall thereupon succeed to the same.' The Act also enjoined that if the widow remarrying was a minor whose marriage had not been consummated, she could not remarry without the consent of her father, or grandfather, mother, elder brother or next male relative. It was only when she came to full age or when her marriage had been consummated that her own consent was sufficient. Legal disabilities apart, widow-remarriage was not considered to be a good marriage. It lacked the two essential elements of Brāhma marriage. It was not a gift of a maiden, and hence, to people accustomed to the Brāhma form of marriage alone, did not fulfil the requirements of marriage as they knew it. Secondly, with the ideal of *pativratā* and the practice of *sati* (which was legally stopped only a few years before), a Hindu woman would never think of remarrying after the death of her first husband. It would be a social disgrace the enormity of which neither the widow nor her parents could stand. Again, the children of the deceased husband on her remarriage were left under the guardianship of her former husband's relatives.[14] The result was that widow-remarriage has remained to this day a problem in Hindu society.

Malabari saw the weakness of this legislation and suggested some ways whereby it could be made to serve its purpose. According to him, millions of simple misguided creatures (widows) were exposed to all sorts of trials and temptations, and therefore their lives were a curse to themselves and, in some instances, a standing menace to society. Educated young men and many of the orthodox old were anxious to be saved from these demoralizing effects if for no higher purpose than their own interests. In the caste society of the Hindus, the influence of caste was overpowering in persecuting offenders. Widows whose offences against caste became public were liable to excommunication ; and cogently and poignantly Malabari wrote: 'Such are the results virtually of the abolition of *sati* by the British Government. Had Mountstuart Elphinstone and Lord William Bentinck anticipated them they would have paused before enforcing the law without legitimate corollary, for whereas *sati* was one single act of martyrdom or heroism, as the victim conceived it, and an act of religious merit popularly believed, the life which caste imposes on a widow is a perpetual agony, a burning to death by glowing fire without any chastening or elevating effect on the sufferer or any moral advantage to the community at large.' He therefore suggested that the Government should rule:

(1) That no Hindu girl who had lost her husband or her betrothed while she was a minor should be condemned to lifelong widowhood against her will. The provisions of the Hindu Widow Remarriage Act of 1856 should be made widely known and enforced in favour of widows. Opposition from the caste concerned should be countered by some indirect encouragement from the Government.

(2) That arrangements should be made in suspected cases to ascertain whether a widow had adopted perpetual seclusion voluntarily or whether it had been enforced upon her.

(3) That every widow of any age should have the right to complain to the authorities of social ill-usage (over and above excommunication) and that such proper facilities should be afforded to her for the purpose as free legal aid in council, exemption from stamp duty, attendance at court, etc.

(4) That the priest had no right to excommunicate the relations and connexions of the parties contracting a second marriage or to excommunicate its principals.

Malabari saw clearly that the problem of widow-remarriage had become appalling because of infant marriage. Accordingly he submitted another memorandum to the Government on 18 August 1884, pointing out how infant marriage was the cause of many social grievances, including enforced widowhood. It forbade the exercise of free will of the parties. It resulted in physical defects and moral taints; the former increasing with age, the latter growing into a malady, with the result that many fixed unions turned out unhappy. Even in happy marriages early consummation breaks down the constitution and disease follows. The giving up of studies on the part of a boy husband, the birth of sickly children, the necessity of feeding too many mouths, poverty and dependence, a disorganized household, perhaps leading to sin on the early death of the husband, are some of its evident results. But its culmination was, he said, the addition of one more widow to the forty million already existing, and two or three orphans to the fraternity of unprotected infants.

Social and economic evils apart, Malabari referred to a very obnoxious aspect of infant marriage, namely, the marriage of a girl of twelve or fifteen with a boy of eight or ten. Marriage was generally brought about by the father or the elder brother of the boy. If the guardian happened to be a widower one can guess the evil design of such a marriage. 'It is a criminal arrangement leading to sin all round much to the suffering of the unfortunate girl who must in name remain the wife of the boy. When the boy husband realizes his position he may murder the wife or the father or the brother. For proof positive the reader may search the records of a magistrate's court here and there; of presumptive evidence there is no lack. The evil is limited in area but it is none the less a horrible thing. How long will society and the State put up with it?' That Malabari was not imagining situations but relating hard facts can be borne out by the fact that such manipulations are not unknown even today. Only recently a Gujarati weekly from Ahmedabad recorded the following case: A girl was married to a mentally infantile boy, and the boy's father demanded sexual intimacy with his daughter-in-law, saying that he had paid the bride-price not for his mad son but for himself.

The Government reply to Malabari's memorandum runs as follows: 'When caste or custom enjoins a practice which involves a breach of the ordinary criminal law the State would enforce the law. When caste or custom lays down a rule which in its nature is enforcible in civil court, but is clearly opposed to morality or public policy, the State will decline to enforce it. When caste or custom lays down a rule which deals with such matters as are usually left to the option of citizens, and which does not need the aid of civil or criminal courts for its enforcement, State interference is not considered either desirable or expedient. In this matter His Excellency in Council considered interference by the State undesirable and hence this social reform must be left to the improving influence of time and to the gradual operation of the mental and moral development of the people by the spread of education. The Government of India do not desire to interfere in the legislation [Act of 1856] until sufficient proof is forthcoming that legislation is required to meet a serious practical evil and that such legislation has been asked for by a section important in influence or in number of the Hindu community itself.' The Government of India further stated that their reply was based on the opinions invited from the provincial governments. The public feelings on the question and their reaction can be gauged from the opinion of the Bombay Government: 'It is generally admitted that infant marriages and enforced widowhood are productive of evil results, but some people feel that Mr Malabari has exaggerated the conditions. One would call it a gratuitous and unmitigated libel on the whole Hindu community.'[15]

Although Malabari failed to carry the Government with him, his agitation did not prove entirely barren. He convulsed Hindu society with his celebrated Note and succeeded in creating a lively and permanent interest in the subject which the Government of India could not fail to take note of. The age of consent was raised. and sexual intercourse by a man with his wife under twelve years of age was made an offence. Taking advantage of the public mood Man Mohan Ghosh attempted to raise the age of marriage to twelve years. In 1891 he put forward in the Bengal legislature a proposal that a general law might be passed for British India 'declaring that no marriage shall be valid if either of the contracting parties at the time of celebrating their marriage is below twelve years'. But the proposal did not find support. Hence, the first beginnings in this respect were made in the enlightened states of Mysore and Baroda.

The Mysore Government attempted in 1894 to prevent the marriage of a girl before she was nine. A person who brought about the marriage of an infant girl, that is a girl who had not completed eight years, or aided or abetted such a marriage, or any man over eighteen years of age who married an infant girl was liable, on a prosecution sanctioned by the Government, to be punished with simple imprisonment up to six months. The (Baroda) Early Marriage Prevention Act of 1904 went a step further by laying down twelve as the minimum age of a girl at the time of marriage. In order to respect public sentiment on the subject and to avoid unnecessary inconvenience and embarrassment to the public, this Act provided that if the guardians of a minor girl (i.e. one who had not completed her twelfth year) whose age was above nine desired to get her married, they might do so with the permission of a tribunal consisting of the local sub-judge and three assessors of the petitioner's caste. The parents had to satisfy the tribunal that if the marriage of the minor girl was not allowed it would probably not take place at all or not within one year of the bride attaining her majority, or that the parents and guardians of the girl were not likely, owing to old age or infirmity, to survive until she came of age and that she had no other guardian, or that inevitable difficulties of a similar nature were likely to occur. The tribunal if satisfied could grant permission for the celebration of marriage before the girl was twelve. In order that this concession might not be abused it was provided that if the sub-judge disagreed with the assessors the case should be referred to the district judge and his decision was to be final. Indore State legally regulated the age at marriage in 1918 by prescribing fourteen years and twelve years as minimum marriageable ages for a boy and a girl respectively.

To evaluate these reforms, the Mysore legislature questioned the marriage of a girl below eight; it allowed prosecution only when it was sanctioned by the Government, the maximum punishment being simple imprisonment for six months. The sanction behind the law was not so rigorous as would deter persons from contracting unlawful marriages. That the legislation should aim at nine years as the minimum age of a girl at marriage and provide poor sanction for its enforcement may appear strange or even ridiculous to younger people in the second half of this century, but these limitations were the product of the time. This will be understood only when we remember that a moderate proposal of Man Mohan Ghosh did not find approval among the advanced people of Bengal and that the concession given by the Baroda legislation was fully exploited. 'No less than 695 applications were presented (in the first year of the operation of the Act) and 68 per cent of such petitions were permitted.' When the concession was not availed of, the State could not enforce the law. 'Seven hundred and eighteen offenders were punished with fine, with a sum ranging from one rupee to twenty-five rupees. . . . 78 per cent of this fine inflicted under this Act were below five rupees, and only 4 per cent exceeded ten rupees.'[16] One may not like the leniency shown by the Government in the enforcement of the law; but to a certain extent it was necessary that the people should be persuaded to accept this reform as inevitable in the changed conditions. The leniency of the Government was due more to the fact that the officers in charge could not enforce the law strictly, as they themselves did not always regard it as necessary and desirable. Customs die hard, and initial breaks with customs are always moderate and slow.

The amusing fact was that, even when something was done in the states, British India remained rigidly averse to any reform. It was in 1921 that the problem of child marriage was first posed for British India by Lala Girdhari Lal. He asked the Government whether it would undertake legislation prohibiting the marriage of a girl below the age of eleven years and of a boy below that of fourteen years. The Government expressed the view that, due to backward social conditions in the country, initiative in the matter should come from a private individual rather than from the Government. In February 1922, Rai Bahadur Bakshi Sohanlal moved a Bill in the Assembly to raise the age of consent in both marital and extra-marital cases to fourteen. When the Bill was referred to the provincial governments for opinion some were lukewarm, others—Bihar and Orissa, the C.P., Berar and Bengal—were against it. Only the Bombay and the U.P. governments hailed the proposition with enthusiasm. The Government of India accordingly did not allow the Bill in the next session (September, 1922). The matter was again taken up in the Assembly in 1924, this time by Sir Hari Singh Gour. The Select Committee to which the Bill was referred allowed the age to be raised to fourteen in extra-marital cases but reduced it to thirteen for marital consummation. The legislators were not satisfied by the Bill as it emerged from the select committee, and, in spite of strong governmental opposition, raised the age to sixteen in extra-marital and fourteen in marital cases. The Government did not allow the Bill to go through; instead, it presented a new Bill in September 1925, fixing fourteen as the age in extra-marital cases and thirteen in marital cases. The House was not however satisfied, and Sir Hari Singh Gour again pleaded in 1927 for the Bill thrown out in 1924. An Age of

Consent Committee, popularly known as the Joshi Committee, was thereupon appointed to go into the matter in detail. The Committee recommended that the age be raised to fifteen in marital cases. Consummation before fifteen was to be known as 'marital misbehaviour' and the offender was to be punished with imprisonment of either description for ten years and a fine when the wife was under twelve years of age, and for one year or a fine or both when she was between twelve and fifteen. In extra-marital cases the age was to be raised to eighteen. In the case of any sex relation with a girl under sixteen, the offender was to be punished with transportation or imprisonment for ten years. If the girl was above sixteen and if she consented the imprisonment could be extended to two years with or without a fine. To prevent premature consummation the Committee further recommended that the marriage of a girl under fourteen should be prohibited and penalized.[17] The Government did not revise the age of consent, but steps were taken to fix the minimum age for marriage. In pursuance of this the Child Marriage Restraint Act was passed in 1929. According to this Act, a male under eighteen years of age or a female under fourteen was considered a child. 'Whoever, being a male above 18 years of age and below 21, contracts a child marriage shall be punishable with fine which may extend to 1,000 rupees.' And if he was above twenty-one he could be punished with simple imprisonment extending to one month, or the above fine, or both. Likewise, 'Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to 1,000 rupees or with both, unless he proves that he had reasons to believe that the marriage was not a child marriage.' The inherent defects of the Act for its successful operation were that it did not make child marriage a cognizable offence and no action could be taken by the Government for its breach unless a complaint was made within one year of the solemnization of the marriage. Secondly, such a complaint had to be lodged in a Court of a Presidency Magistrate or a District Magistrate,[18] and, 'at any time after examining the complaint and before issuing process for compelling the attendance of the accused, the Court shall, except for reasons to be recorded in writing, require the complainant to execute a bond, with or without securities, for a sum not exceeding one hundred rupees, as security for the payment of any compensation which the complainant may be directed to pay ; . . . and if such security is not furnished within such reasonable time as the Court may fix, the complaint shall be dismissed.' According to the Amended Act of 1938, 'The Court may, if satisfied from information laid before it through a complaint or otherwise that child marriage in contravention of this Act has been arranged or is about to be solemnized, issue an injunction against any of the persons . . . prohibiting such marriage' after previously giving notice to such person to appear in person or by pleader and to show cause against the issue of the injunction. 'Whoever disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine which may extend to one thousand rupees, or with both.'

This legislation applied only to marriages celebrated in British India, leaving marriages solemnized in about 600 native states beyond the purview of the Act. Some of these states reacted to the growing pressure of the time but the measures taken were much below public expectations. The Baroda Government amended its Act of 1904. The Amended Act of 1929 made marriages of boys and girls at sixteen and twelve respectively punishable, but declared marriages void in cases where the bride or bridegroom was less than eight years on the day of marriage. Persons who brought about such unions were rendered liable to punishment of simple imprisonment not exceeding one month or a fine up to Rs 500 or both. Persons who performed the marriages of boys and girls under the age stipulated were liable to a fine up to Rs 500. In 1932, however, the law was brought in conformity with that of British India by raising the age of the boy to eighteen and of the girl to fourteen. In 1933, Indore State brought its Act of 1918 into line with that of British India.

Any attempt on the part of the Government to prohibit sexual intercourse of a husband with his wife until she reached a particular age was hardly expected to be successful. A Hindu female child is brought up in an atmosphere where the husband is most respectfully looked to, is most obediently served, and is loved with the utmost devotion. She is expected to enhance the prestige of the family by treating her husband in the same way and never to bring ill-repute to the family by any sort of defiance of her husband. In a community with such sentiments, recourse to a court for violating a child-wife before a particular age fixed by law could never be contemplated by the offended girl nor undertaken by her parents for fear of exposing the child to public disgrace and for fear of the adverse opinion that such action would invite from the members of their caste. The Joshi Committee averred that premature consummations were reported to the court in only a few cases. It was hence desirable that, instead of raising the age of consent, age at marriage should be legally fixed. The Child Marriage Restraint Act was therefore a step in the right direction.

The Government thus partly carried out the suggestions of the Joshi Committee but left its most important suggestion unattended: When a female is thought incapable of using her discretion before she attains majority (because of this all her transactions are legally protected), it is reasonable to expect similar protection in sex matters. It is regrettable that the Government should have remained unmoved by the Joshi Committee's suggestion.

The Joshi Committee's suggestion that marriage should not take place before the age of fourteen, has been accepted and is now law. This is a satisfactory first step. When, however, the Hindu Marriage Act of 1955 accepts fifteen as the minimum age at marriage in the case of a girl, one is tempted to ask whether this legislation is not after all retrogressive when the age at marriage has in practice been sixteen and above, and when so many other considerations suggest eighteen to be the desirable minimum.

Let us study recent trends in age at marriage. B. L. Mankad studied the age at marriage through three generations (the propositus, his father and grandfather) in the Vadnagara Nagar caste of Saurashtra and came to the conclusion that the average age of the female had changed in one survey from 11·4 to 12·7 to 14·2 and in the other from 11·42 to 13·59 to 14·81.[19] This average, giving the nature of change, can be better illustrated by the frequency record:

	Sample I			Sample II		
Age of girl at marriage	F. F. gen.[1]	F. gen.[2]	P. gen.[3]	F. F. gen.	F. gen.	P. gen.
10	28	25	1	29	2	
11	51	97	8	43	17	1
12	65	316	87	76	182	8
13	14	233	282	10	291	74
14		141	294		272	334
15		72	237		172	453
16		24	145		59	205
17		9	38		7	44
18			4			2
Total	158	917	1096	158	1002	1121

[1] Father's father's generation.
[2] Father's generation.
[3] Propositus generation.

It will be seen from sample II that, while in the F. generation nearly 20 per cent of the marriages took place before the girl was 13 and nearly 50 per cent before she was 14, in the present generation the percentage of marriages before 14 is below 8 per cent. In sample I marriages of girls before 13 and 14 in the F. generation amount to 47 per cent and 73 per cent respectively, and compare with 8·75 per cent and 34·4 per cent in the present generation. Marriage at 14 has come to stay at least in the higher Hindu castes irrespective of the Child Marriage Restraint Act of 1929. The percentage of marriages of girls between 14 and 15 has risen in two generations from 44 to 70 per cent in sample II and from 23·2 to 48·6 per cent in sample I. Marriage of girls between 15 and 17 in the present generation works out at 62·6 per cent in sample II and 38·2 per cent in sample I.

But Mankad's study does not appear to be fully indicative of the recent trend in Hindu marriage, because it is confined to one high caste only. Mrs Gunial Desai studied the lives of 900 Gujarati women living in Bombay in the early part of the 1940's. Hers is an unrestricted sample and therefore more representative of the trend. Unfortunately she has not divided her sample into generation groups, with the result that one cannot see the changes as clearly as with Mankad's study. In 1951 the present writer undertook two inquiries. In one he studied 148 recent marriages (i.e. in 1941 and thereafter) and in the second 240 marriages of Gujarati graduate teachers. In the latter inquiry 143 persons were below the age of 35, and 97 above it. They may thus be taken as representative of the present generation and the father's generation. This sample is also representative because it is drawn from different parts of the old Bombay State ; only it is very small. The result of these different studies when put together clearly indicates a gradual rise in the age of girls at marriage. The figures represent percentages.

From the table opposite we see that recent marriages in the age-group 16-18 come to 46·6 per cent, and to 68·9 per cent in the age-group 16-20. What makes the change more illuminating is the fact that the table includes persons from all castes—oil-pressers, Harijans, potters—artisan castes, the high-caste persons who are not always educated, much less university graduates. The 148 married girls include 14 graduates, 8 undergraduates, 13 matriculates and 21 who have reached secondary fifth standard and above. Girls generally matriculate at the age of 18,[20] and education may thus be said to be a reason for later marriage. Amongst the remaining cases there are 10 families where the husband is a graduate and another 10 where he is an under-graduate. The husband's education may account for later marriage in these 20 cases. At the most, then, 76 or over 50 per cent of the marriages are made later as a direct result of education. But the factor of education should not be over-emphasized. In a study carried out among hotel-boys, i.e. the poorest and the most illiterate section of the Hindu community,

	Mankad (1934-5)			Desai (1945)	Kapadia (1951)		Kapadia
Age		F. gen.	P. gen.		Above 35	Below 35	Recent marriages
4-9				1·4	9·3	1·4	
10-13	(I)	73·1	34·4	19·4	14·4	3·5	
	(II)	49·1	7·4				
14-15	(I)	23·2	48·6	38·7	24·7	12·6	10·1
	(II)	44·3	70·2				
16	(I)	2·6	13·2	15·8	13·4	16·8	12·8
	(II)	5·9	18·3				
17-18	(I)	1·0 (app.)	3·8	12·6	17·5	30·7	33·8
	(II)	0·7 (app.)	4·1				
19-20				6·0 (app.)	11·4	21·0	22·3 (app.)
21-24				5·0	6·2	10·5	16·9
25-27				0·9	3·1	3·5	4·1

Kadri found that 18 out of 48 marriages were in the age-group 15-16, 6 in the age-group 17-18, and 4 in the group 19-20. In other words, half the marriages took place between the ages of 15 and 18.[21] For it very often happens that a bridegroom is not available within a small endogamous group. People cannot shed their endogamous habits and so they look for a proper partner for their daughter in the neighbourhood. Time thus passes in the search for a bridegroom, and imperceptibly and unwillingly the girl grows up. This is the situation prevailing in the Hindu community today and it is bound to worsen ; the marriage age does not go below 16 years of age.

It is evident from both of Mankad's samples that in the grandfather's generation there was no hope of marriage for a girl who had passed 14. Hindu tradition required a girl to be married at the latest by the time she attained puberty ; and the Nagar community of Saurashtra in the nineteenth century was bound by tradition. It is consequently safe to assume that girls in the community attained puberty between the ages 13 and 14.

The average age of menarche in case of 989 girl students of the Maharaja Sayajirao University of Baroda, during the years 1950-52, is computed to have been 13·8 years, which confirms this assumption. Dr Sushila Gore, who interviewed 412 Hindu girls in five Bombay secondary schools, found the average to be 13·75. In her survey, 55·4 per cent of the girls reached menstruation at 13 or 14; 21·4 per cent at 12, and 12·3 per cent at 15. Dr K. A. Shah, in his medical examination of 2,391 Hindu girls in Gujarat University (Ahmedabad, in 1955), however, found the average age to be 14·88 years. Of the girls examined by him, 86·11 per cent reached menstruation at 14, 15 or 16 (25·50, 39·20, 21·41). This confirmed Dr Dhanvant Mehta's findings in his survey of 331 primary school teachers in Bombay in 1954. The average age was 14·69; 77·6 per cent in the age-group of 14-16 (28·7, 30·8, 18·1). That the age of menarche has steadily gone up is quite clear, whatever the reasons for it. The menarcheal age of the Nair girl of Travancore was found to be 14·29 ± 0·19 in an early study.[22] The menarcheal age of Bengali girls in Calcutta, found to vary between 12·74 and 12·78, does not represent the average for Hindu India.

It has now been realized that although puberty indicates the beginning of the sex-instinct in woman it does not suggest her maturity for sex-life. A woman's body requires at least three years for proper development of the sex-organs, and her sex-life should be postponed at least for that period. Marriage should therefore be delayed until at least three years after reaching puberty. The findings recorded in the foregoing paragraph justify 18 as the earliest age for marriage, being Nature's dictate.

There is no real data available on the sexual habits of Hindus though some observations made in this connexion are worth our attention. They are based on a small sample of 294 persons, and cannot therefore be accepted as wholly representative. In this sample the age of the wife at marriage was 13 years or below in 17 per cent of the cases and between 14 and 19 years in 70 per cent of the sample. In 21·9 per cent cases, sexual intercourse began immediately after marriage and in 25·3 per cent cases within one month. In other words, with nearly half the females sexual intercourse began immediately after marriage. But when we know that 70 per cent of the married females were of 14 years and above, i.e. when sex-life was physically possible, it is more true to say that nearly two-thirds of the women began their sex-life immediately or soon after marriage. The average frequency of sexual intercourse was 10·2 days per month of 24 days. Professor Ghurye adds: 'It is very likely, as a number of marriages in the sample are of some years' duration, that the frequency of the sex intercourse might have been greater in the earlier period.' Again, 'Multiple coitus on the same night is not reduced to a numerical expression in computing the total frequency'. And this fact cannot be ignored because '89 per cent of the persons have admitted to being in the habit of multiple coitus'. The importance of this factor in the frequency of sexual intercourse is brought out by the fact that 'of the 23 per cent who had multiple coitus during early married life, the monthly frequency now when multiple coitus has ceased is 13·7'. But this line of reasoning should be adopted with caution, because in 74 cases where multiple coitus occurred we learn that 'the practice of multiple coitus is associated with higher average frequency of sex intercourse, i.e. persons who tend to have sex intercourse more frequently in a month are also inclined to copulate more often than once in the same night'. These persons, who do not show normal sexual appetite, may have inflated the average frequency of sex intercourse. We must also remember that we have likewise ignored in this calculation of average frequency, the gaps in sex-life when the wife is away.[23] The average frequency of sexual intercourse per month may be fairly accepted as not below 10. If this inquiry is indicative of our sex habits we should then accept the possibility of the first delivery at the age of 16, when the minimum age at marriage is 14.

Women join their husbands soon after marriage. In some castes girls go to their husband's house at the age of 14 when they marry.[24] Mrs Gunial Desai's observations are very suggestive in showing the impact of early marriage on early delivery. Her data may be presented in the following two tables, the figures representing percentages.

1st child			2nd child	3rd child	4th child
Interval after marriage	Percentage of cases	Interval between 2 children	Percentage of cases	Percentage of cases	Percentage of cases
1 yr	40·0 app.	1 or 1½ yrs	19·5	30·74	25·8 app.
2 yrs	25·67	2 yrs	59.2	35·63	40·72
3 yrs	10·30	3 yrs	8·84	21·26	22·17
4 yrs	7·26	4 yrs	6·34	7·00	8·14
5 yrs	5·15				

1st child		2nd child	3rd child	4th child
Age at which child is born	Percentage of cases	Percentage of cases	Percentage of cases	Percentage of cases
14	4·74			
15	10·13	1·13		
16	16·21	3·62	0·28	
17	16·21	12·00	2·00	
18		18·14	6·04	0·45
19		15·87	16·66	2·26
20			12·07	5·43

These tables[25] bring out the situation so vividly that they need no comment.

Mankad illustrated in his inquiry that with the change in the age at marriage from 11·4 to 14·2 there was no material difference in age at the first delivery. The average age at the first delivery has changed, according to him, from 15·89 to 16·81 to 17·32 in sample II and from 17·59 to 17·1 to 17·52 in sample I.

Though the change is evident in the frequency record, the fact that even in the present generation the age at the first delivery in the case of about one-third of the married girls is 16 and below is significant. Again, the rise in the age at the first delivery in the present generation is offset by the facts that infant mortality has risen from 20 to 23·25 per cent and miscarriage from 0·0244 to 0·07 per cent.

Age at first delivery	Sample I		Sample II	
	F. gen.	P. gen.	F. gen.	P. gen.
14	122	28	62	17
15	134	50	55	68
16	160	101	278	139
	416 (48%)	179 (30·7%)	395 (43·98%)	224 (31·63%)
17-18	242 (27·84%)	240 (41·16%)	410 (45·65%)	339 (47·88%)
19-21	129 (14·84%)	134 (23·00%) app.	82 (9·12%)	129 (18·22%)

The Census Report of 1931 says: 'The female infant is definitely better equipped by nature for survival than the male but in India the advantage she has at birth is probably neutralized in infancy by comparative neglect and in adolescence by the strain of bearing children too early and too often. . . . Whereas the (female) sex ratio in death has fallen since 1921 at all other ages it has risen at the reproductive ages of 15-30. . . . The deterioration in respect of female mortality which set in from 1901 onwards has not taken a definite turn towards improvement, though in the case of males the position with respect to vitality in 1931 was such as to bring it back very nearly up to the high level reached in 1891.'[26] The studies alluded to above poignantly confirm this observation.

We have not so far touched upon the psychological aspect of early marriage. A Hindu girl, on marriage, passes from her father's house to that of her husband. There she comes into contact with persons who do not know her and whom she does not know. There is the possibility of conflict between her and her elders in point of habits, ideology with respect to social etiquette, dress, and a number of other things. As she is expected to behave properly to add to the prestige of her father's family, and proper behaviour implies obedience to her husband, his parents and his elders, she has to give in and acquire their tastes. She cannot be, rather she is not expected to be, assertive. The usual pattern of behaviour between the husband and wife is that of the dominance of the former over the latter. A frequent pattern of behaviour between the daughter-in-law and mother-in law is that of conflict. The mother-in-law is often out to pick quarrels with the daughter-in-law, and unless the daughter-in-law is very tactful or subservient to the wishes of her mother-in-law the two are unlikely to be in accord with each other. And in this pattern of conflict the mother-in-law has the socially recognized dominant role. The young girl thus not only finds herself in unfamiliar and at times conflicting surroundings but is made to realize at the first opportunity the dominating role of her husband and of her mother-in-law in the life she now begins. She is unable to understand how to adjust herself to these new demands, and her parents can be of little help to her because of their respect for the social ideals. Society does not sympathize with her, because these are social conventions. She passes through tensions all alone and attempts to adjust herself to the situation, relying, as every Hindu woman does, on the mercy of God and seeking her consolation in the philosophy of *karma.* These psychological reactions are all the more great when the girl is of tender age. A properly educated girl who has reached the age of 18 years is in a better mental condition to face the situation and to assert herself if need be. Mental conflict is thus bound to be less severe in her case.

Academic discussion apart, let us see whether the age of 14 as the minimum age for the marriage of a girl is reasonable in the seventh decade of the twentieth century. Professor K. T. Merchant, who inquired in the years 1930-33 into the views of Hindu youth on marriage and family, obtained their opinions on the proper age at which a girl should be married.

His data[27] is reproduced in a table opposite.

The present author in 1951 solicited the views of some graduate teachers on some social problems. The trend, as is shown on p. 166, is definitely towards raising the marriage age to

Males educated up to or beyond Matriculation				Females		
Approved age for marriage	Bombay city	Gujarat	Poona	Approved age for marriage	Bombay	Gujarat
12-13	4	4	1	—	—	—
14-15	29 (17·7%)	29 (26·3%)	16 (22·5%)	15	1	—
				16	2	2
16-18	102 (62·5%)	57 (51·8%)	42 (59·1%)	17	1	—
20	19 (11·6%)	14 (12·7%)	7 (10·0% app.)	18	15	6
				20	17	9
20-25	9	4	2	20-25	11	9
Average age	17·1	16·7	16·8	Average age	19·7	19·9

The opinion of males who are not matriculated and who are below 36, gives the average of 16 in Bombay city and 16·1 in Gujarat.

16 at least, if not to 18. In the table, the figures in brackets are cumulative, representing the total number of respondents opting for that age-group.

One important fact needs to be stressed here. The teachers interviewed were not only of the younger generation (i.e. below 35 years of age) but also of the older generation, and the trend is therefore all the more striking.

Education has become necessary for a female not only for marriage but for her economic independence. A college education is desired if the female is to be a worthy partner in marriage. Girls do not generally matriculate before the age of 16. Granting at least four years for college education, a girl would not be ready for marriage before 20, and hence this is a desirable age for marriage.

In view of the data presented here it can be said that the Hindu Marriage Act of 1955, by retaining the minimum marriageable age at 15, ignores not only the evils of early

Age	Gujarati	Marathi	Others	Total	Percentage
14-15	7	6	3	16	
14 & above	2	2	2	6	
16-17	24	29	5	58	
18	42	34	8	84	
16-18	(66)+ 5	(63)+ 4	(13)	(142)+ 9	40·8
16 & above	(71)+ 9	(67)+13	(13)+6	(151)+28	48·3
20	30	29	4	63	
18-20	(72)+18	(63)+17	(12)+4	(147)+39	50·02
18 & above	(90)+ 6	(80)+18	(16)+1	(186)+25	57·02
20-25	19	11	6	36	
above 25	2	2	1	5	
Total	164	165	40	369	

marriage but recent trends in opinion on the subject. When the Child Marriage Restraint Act was passed in 1929, early marriage was the characteristic feature of Hindu society. In the twenty years that have passed since this legislation there has been a distinct change in the outlook of the people, and this has been reflected in a gradual rise in the age at marriage. New legislation must attempt to give expression to the changed conditions and outlook. The minimum age should have been at least 16, although 18 would have been more desirable.

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← 78 - 18 -

8

HINDU MARRIAGE A SACRAMENT

THE AIMS OF HINDU MARRIAGE ARE SAID TO BE *dharma*, *prajā* (progeny), and *rati* (pleasure). Though sex is one of the functions of marriage it is given third place, indicating thereby that it is the least desirable aim of marriage. To stress the lower role of sex in marriage, the marriage of a Śūdra is said to be for pleasure only. The Śūdra is considered to be a contemptible fellow who has no high purpose in life. Because the Śūdra is despised, relations with a Śūdra woman are viewed unfavourably though they cannot be stopped. Consequently the Brahmanic legislators enjoined that a Śūdra wife would be taken only for pleasure. This association of the Śūdra wife with sex is another way of indicating the proper place of sex in marriage. We find in the literature of this period—Manusaṁhitā as well as the Mahābhārata—a derivation of the word *putra*, son, as one who saves the father from going to hell (*put*). The place of the male child in the family was so elevated that procreation was a duty in the interests of both the family and the community—although it was not said to be the highest aim of marriage. It will be obvious, therefore, that when the Hindu thinkers regarded *dharma* as the first and the highest aim of marriage and procreation as the second best, *dharma* dominated marriage. Marriage was desired not so much for sex or for progeny as for obtaining a partner for the fulfilment of one's religious duties. On marriage the sacred fire was enkindled, and it was the duty of the householder to offer *pañcamahāyajñas* daily in the company of his wife. It was only on the death of the householder that these obligations ceased. They were interrupted on the death of the wife, and hence the householder was enjoined immediately to take a second wife. Marriage being thus primarily for the fulfilment of duties, the basic aim of the marriage was *dharma*.

There are certain rites which must be performed for marriage to be complete. The main rites are: *homa*, or offering in the sacred fire, *pāṇigrahaṇa*, or taking the hand of the bride, and *saptapadī*, the bride and the bridegroom going seven steps together. All these rites are performed by a Brahmin in the presence of the sacred fire and are accompanied by the Vedic *mantras*. They are necessary for marriage to be complete, because when they or any of them are not properly performed, the marriage may be legally questioned. Hindu marriage is a sacrament. It is considered sacred because it is said to be complete only on the performance of the sacred rites accompanied by the sacred formulae.

It is a sacrament also in another sense. A Hindu male goes through the performance of several sacraments during the course of his life. These begin with the laying of the fœtus and end with the cremation of his body. Their importance in Hindu life can be understood from the fact that while in the early law cremation was prescribed for a child who had completed two years, in the later law it was enjoined in the case of a child who had undergone the sacrament of tonsure. Similarly marriage is said to be essential for woman because that is the only sacrament that can be performed for her.

As marriage is said to be sacred it is irrevocable. The parties to the marriage cannot dissolve it at will. They are bound to each other until the death of either of them; and the wife is supposed to be bound to her husband even after his death. This concept of marriage, that it is indissoluble, is a lofty one because it means that the husband and wife after marriage have to adjust their tastes and temper, their ideals and interests, instead of breaking with each other when they find that these differ. It thus involves sacrifices on the part of both husband and wife as each is called upon to overcome the incompatibility of the other. Hindu marriage, thus viewed, is not an ordinary affair wherein the weakness of flesh plays a dominant part. On the contrary, demands of personal gratification and pleasures are subordinated, and the individual is called upon to make marriage a success by means of compromise and adjustment.

The question of conflict, to which we are now accustomed to attach so much significance, did not perhaps arise in the old days. The initiation rites were performed only for a male child, and initiation was the preliminary to education. Because initiation was denied to a female child the wife was often likely to be unaccomplished. The husband, learned in various branches of the Vedic studies, consequently expected little intellectual co-operation from his wife. Even in the performance of religious duties the wife was more of a passive partner, and was generally selected from a family which did not neglect the performance of sacred rites. Marriage was a social duty toward the family and the community, and there was little idea of individual interest. The social background provided by the authoritarian joint-family, and caste with its dominion in all spheres of life, afforded no scope for the recognition of any personal factor, individual interests or aspirations, in the relations between husband and wife.

Despite the fact that marriage was considered to be irrevocable, the two partners were not regarded as being equals in their obligations and privileges. There was obvious discrimination made in their responsibility towards each other and in responsibility for sustaining the marriage. The ideal of *pātivrātya*, i.e. being devoted to the husband alone, popularized by the Puranic writers, not merely implied fidelity to the husband but made service to the husband the only duty of the wife and her main purpose in life. As a river merging itself in the ocean loses its identity, so a wife was supposed to merge her individuality with that of her husband. Her only concern in life was to see that all services needed by her husband were properly performed by her, the satisfaction of her husband being her sole joy in life. Instances are recorded in Puranic literature where a husband demanded that his wife take him to the house of a prostitute on her shoulder, and the wife willingly did it to prove that she was a *sati*. As the husband was the centre of all her activities and interests in life, there was no question of raising a word against him even when he was found to be ill-tempered, vicious, diseased or a drunkard. The wife was not only attached to him as long as he lived, but even after his death, because a *sati* could never conceive of a second husband. Naturally, then, on the death of the husband the wife had either to live chastely, renouncing all the joys of life, or to follow her husband by immolating herself with his body on the pyre. The ideal of *pātivrātya* gave rise to and glorified the practice of *sati* or immolation.

The practice of *sati* seems to have been first recommended in Viṣṇu Dharmasaṁhitā in the second or third century A.D. Bāṇa's memorable passage in *Kādambarī*, denying that to lay down one's life after the dead, *anumaraṇam*, rewards either the dead or the dying, shows that the practice though not firmly entrenched was meeting with popular approval. Manu and Yājñavalkya recommended that a widow should lead a chaste life. According to Kauṭilya, a woman, on the death of her husband or on his prolonged absence or on his becoming an ascetic, could marry, after seven menses or a year, his brother or a kin. 'If a woman violates the rule by remarrying one who is not *dāyāda*, kin, of her husband, then the woman and the man who marries her, those who have given her in remarriage, and those who have given their consent to it shall all be liable to punishment for elopement.' We have seen that *niyoga* was an attempt to restrict a widow's second marriage to the confines of the family and later on to restrict the opportunity for remarriage. The second marriage of a woman whose husband was long away was allowed by the Dharmasūtra-writers. Kauṭilya allowed the second marriage even when the husband was away for a short period provided the woman did not receive maintenance from him or his kin. Even as late as the sixth century A.D., Parāśara allowed a woman to take a second husband when her husband had been away for a long time, when he was dead, outcaste, impotent, or had taken to the life of an ascetic. In the next verse he exhorts the widow to remain chaste, and in the verse that follows she is advised to be a *sati* to take her husband out of hell. This only means that the old traditions of widow-remarriage were still lingering, not that *sati* was necessarily what the widow herself desired. This is further borne out by Medhātithi who in the ninth century condemned *anumaraṇam*. To him it was no *dharma* and had to be tolerated only as a transgression in times of distress, *āpaddharma*. Verses attributed to Paiṭhīnasi and Aṅgirā recommended *sati* to women of castes other than the Brahmin, and it is therefore not surprising that, in Rajputana and Central India, Rajput wives were *satis* in the sixth and ninth centuries.[1]

It is evident from this short history that views against widow-remarriage were being propounded from the beginning of the Christian era, although they did not become common until much later. Even so, by the seventh century widow-remarriage appears to have become rare, owing to the propagation of enforced widowhood or *sati*. With the passing of time the ideal of *pātivrātya* became so deep-rooted in the mind of the Hindu woman that immolation became not only customary but a woman's highest aspiration. In the mid-eighteenth century Stavorinus recorded that the woman 'underwent everything with the greatest intrepidity and her countenance seemed at times to be animated with pleasure, even at the moment when she was ascending the fatal pile'. Malcolm relates how Muchta Bai silenced her mother Devi Ahalya Bai. When her mother, moved by affection, implored her to desist from her resolve, she replied: 'You are old, mother, and a few years will end your pious life. My only child and husband are gone, and when you follow, life, I feel, will be insupportable; but the opportunity of terminating it with honour will then have passed.'[2] A woman who became a *sati* was highly venerated and her blessings were invoked.

From the sixteenth century[3] onwards efforts were made to prevent *sati*, but force of tradition kept the practice alive in certain regions. Dubois recorded that 'in the southern parts of the peninsula of India *sutties* are seldom seen' and Malcolm stated that 'the Mahrattas, since they acquired paramount power in this country, have, by a wise neglect and indifference, which neither encouraged by approval, nor provoked by prohibition, rendered this practice very rare'. Even in Bengal according to Scrafton, the practice 'was far from common and was only complied with by those of illustrious families' in the mid-eighteenth century.[4] But it seems to have grown in the nineteenth century.[5] During the years 1815-28 there were 8,134[6] cases officially reported in the Bengal Presidency and three-fifths of these occurred in the Calcutta division. Apart from the high number of *satis,* an average of 580 a year during this period, a horrible aspect was that among the widows burnt between 1815 and 1820 three were eight years old and 43 were between the ages of nine and sixteen. Among 839 cases in 1818, 49 were under twenty and 122 between twenty and thirty ; and of the 575 cases reported in 1823, 32 were under twenty and 208 were between twenty and forty. Although the Smṛti-writers forbade *sati* for Brahmin women two-fifths (234) of the 575 widows immolated in 1823 were Brahmin.[7]

Widows were often forced to make a vow, *ṣaṅkalpa*, to die after their husbands (this being necessary for *sati*) after intoxication by drugs. They were bound with ropes on their husbands' pyres ; bamboo poles held the victims down, preventing their escape from the pyre ; and drums and shrill instruments silenced their shrieks.[8] Though some of the British officials individually interfered with this enforced immolation, the Government vacillated, having pledged itself to respect the people's opinions and prejudices. As a result, its regulations to prevent forcible immolation tended in fact to give sanction to the practice. As H. Oakley, Collector of Hooghly, put it at the end of the year 1818: 'Previous to 1813 . . . the Hindoos were aware that the Government regarded the custom with natural horror, and would do anything short of direct prohibition to discourage and gradually to abolish it. The case is now altered. . . . This is granting the authority of Government for the burning of widows ; and it can scarcely be a matter of astonishment that the number of the sacrifices should be doubled when the sanction of the ruling power is added to the recommendation of the shastra.'[9] The attitude of certain Company officials, efforts of Christian missionaries and the crusade of Raja Ram Mohan Roy for reform had created a certain awakening among the people to the horrors of *sati* ; but it was left to Lord Bentinck to take enough personal interest and initiative to strike boldly at the practice. Bentinck acknowledged that the 'conscientious belief of every order of Hindus.

with few exceptions, regards it as sacred and consequently any attempt to put it down will inspire extensive dissatisfaction'. He affirmed, however, that he would proceed in order that Hindus emancipated from the chains and shackles upon their minds and actions could assume their just places among the great families of mankind.[10] The Prevention of Sati Act of 1829 made the burning or burying alive of widows culpable homicide, punishable with fine and/or imprisonment. When compulsion or the use of drugs deprived the *sati* of free will the offence might be judged as murder and punished by death. Later on, assistance in *sati* was equated in the Indian Penal Code with abetment to suicide. Raja Ram Mohan Roy was not in favour of such a drastic step, but when he learnt about the Act he stood by Bentinck and defended it before the Privy Council against a petition by orthodox Hindus against legislative interference.

The Act, however, could not erase at a single stroke the spirit that moved Hindu women for *sati*. Colonel Sleeman records that a woman of about 65 insisted on being immolated on the pyre of her husband on 29 November 1829. No one brought her logs of wood for fear of being involved as abettors, but the woman was firm and sat by the pyre of her dead husband, starving herself, hoping to die in order to become united with her husband. After four days Sleeman himself approached the lady to persuade her to give it up, but temptations and threats were useless. Although he insisted on the strict enforcement of the Act, he had to give the lady permission for *sati* and her joy knew no bounds when she was told.[11]

The prevention of *sati* was in accordance with humanitarian instincts, but it left the widow to face a miserable and inhuman existence. Being economically dependent on the members of her husband's family she was ill-treated, abused, and sometimes blamed and cursed for any unhappy occurrence in the family. She had to work hard in the house and put up with all kinds of indignities and humiliations from the senior and at times even the junior members of the family. And if this was not sufficiently degrading, she was considered inauspicious. To see her in the morning or to face her while going on a journey or some mission was regarded a bad omen. Her presence on any auspicious occasion was considered to forbode calamity and frustration. Consequently she had to keep herself away or at a distance, even on the occasions of marriage of her own children. Society also made heavy demands on her. She was expected to be chaste. Even if she was seduced by a man outside the family or, more likely in the case of a young and beautiful widow, by a member of her family, the man went free and it was the woman who was condemned.[12] Not only her husband's kin, but her own parents and relatives lost face if this happened ; and to save the prestige of her parents' families she was often persuaded to put an end to her life by suicide.[13] If she was pregnant the indignation of her kin, members of her caste and neighbours made her appearance in public almost impossible. She might manage to hide her sin by abortion, but if she had children they too would bear the stamp of indignity and disgrace. Among the high castes, this attitude affected the status of children and kin for several generations, for when settling the marriages of young men and women in that family even in the third or fourth generation the sin of the widow would be remembered as a degradation.

Thus the Prevention of Sati Act of 1829 posed a new problem for the young widow: apart from depriving her of the glory and joy of *sati*, it meant that a more degrading existence became inevitable. A corollary to the Act was necessary in the form of opportunities for a second marriage, promising the start of an unattainted new life. Through the efforts of Ishwar Chandra Vidyasagar the Hindu Widow Remarriage Act was passed in 1856. This Act was, however, a half-hearted measure ; and, like the Special Marriage Act of 1872, proved futile. The Hindu woman was brought up in a home where the ideal of *pātivrātya* had been inculcated into the life of her mother and other elderly female members of the family. It was difficult for any widow even to conceive of another husband in violation of this family ideal and the cultural tradition of the community. In fact respect for this cultural tradition was so great, and the desire to conform so strong, that even the lower castes which permitted a second marriage of the widow endeavoured to restrict it in an attempt to reach the cultural level of the higher castes. While tradition and the family were potent enough checks to keep the widow tradition-oriented, caste proved a still more powerful deterrent to any innovation. The few who dared to contract marriage with a widow—Sasipada Banerjee in Bengal, D. K. Karve in Maharashtra, Madhavdas Karsandas in Gujarat—were excommunicated, which in those days involved cessation of all services, besides uprooting from the family. Those who sympathized with widow-remarriage were manhandled, threatened with murder, fined and sometimes excommunicated.[14] Legislation was a poor means of saving the Hindu widow from her fate.

It is interesting to find that even now, more than a hundred years after this permissive legislation, it is not regarded as normal for a widow to marry again. This is evident from comparatively recent samples taken by sociologists. Firstly, out of 185 widows contacted by Mrs Vatsala Mehta 41 per cent did not favour the remarriage of widows. Mrs Gunial Desai, on the other hand, found that 89 per cent of the widows she contacted (83.3 per cent being child-widows) favoured it. However, she found the middle-class Gujarati women whom she also interviewed to be more traditionally minded. Of the 810 married women in her survey, 322 (nearly 40 per cent) believed that widows, even child-widows, should not think of remarriage. Among those who favoured remarriage 60 per cent would permit it only to child-widows. Secondly, whenever it was permitted, it was permitted only in specific cases: when the widow is young, helpless and/or childless, passionate, or as protection against social scandal. It was not considered a normal right but a concession to some of the weaknesses to which the widow might be a victim because of her social position. Such an attitude is intelligible in the perspective of orthodox training and upbringing in tradition-oriented homes, unaffected by the influence of external forces. Mrs C. A. Hate, another sociologist, observed that 'considering that remarriage would tarnish the fair name of their families, widows display considered hesitation and reluctance to be remarried'.[15]

To the question of Mrs Vatsala Mehta, 'Which (of these reasons) do you regard as responsible for your widowhood?', 160 widows reported their past actions; 25, social customs; 11, parents; and 3, circumstances. By social customs they probably meant child marriage, or exchange marriage (when a girl is married to a person, irrespective of his age or character, in exchange for his sister or near relative given to any relative of the girl). They may also have been referring to marriages contracted mainly for financial reasons, or for reasons of family prestige, or indeed for any other mis-directed reason. Widowhood in most cases results from such maladjusted marriages in childhood. What is therefore striking is that so few widows attributed their condition to social customs or to parents mainly responsible for it. Many have, on the other hand, accepted widowhood as a proper punishment for misdeeds in their past birth and as such have resigned themselves to it ungrudgingly. They blame no one but themselves and consider their parents as mere agents of destiny in helping towards its fulfilment. Evidently they are not conscious of any injustice in not being allowed to marry again. The force of tradition is so great that they not only accept their own obligation to remain widows as sacrosanct, but they indirectly uphold the privilege of a man to contract a second marriage.

Another disconcerting fact in this connexion is the recent revival of *sati*. A 22-year-old girl in Gwalior who was the third wife of one Mangilal performed *sati* on his death on 17 April 1951. All efforts to move her from her resolve—even an appeal in the name of her young son—were of no avail. A crowd estimated at several thousands gathered at the cremation ghat and stories of miracles about the incident started. Another case was reported in September 1952 from a village in Jaipur district. Men are reported to have garlanded the woman, and her path to the pyre was strewn with flowers. In order that the law should not deal too severely with the persons concerned, a child of seven was made to set fire to the pyre. Another case reported in the same month was of a woman of 22 in the village of Khiriya in Saugor district. The list can be lengthened by reports from the newspapers during the last fifteen years, but the number is not a significant aspect. What concerns our analysis is the popular response, because the approval of society is likely to give a fresh lease to the woman's ideal of *pātivrātya*.

Let us now see how men regard this problem. In an inquiry among graduate teachers the author found a very large majority in favour of widow-remarriage.[16] In fact, it is evidently considered disgraceful to say that one does not favour remarriage, and only the strictly orthodox few would categorically deny such a right to a widow. What is pertinent is whether the supporters of remarriage are prepared to admit that it is the privilege of the widow, as it is of a widower, to decide whether to marry again or to lead a chaste life devoted to the memory of her dead husband. What we find is that only 48 teachers out of the 422 respondents would leave the decision to the widow, although 13 accepted it in principle as her privilege as a matter of social justice. These 13 constitute only 3 per cent of those who gave certain circumstances in which they would favour widow-remarriage. A large majority would allow the remarriage of a widow who is young (38·2 per cent), one who is economically helpless (8·3 per cent), one who is passionate (3·1 per cent), one who is childless (10·4 per cent) or of one who shows two or more of these characteristics (26·8 per cent).[17] But this in effect is a denial of the principle of the widow's right to remarry; it is a concession resulting from apprehension of sexual irregularities. It is known to all—and it finds expression in literature also—[18] that concealed sex relations with widows are prevalent on a wide scale and that the concomitant results are often abortion, infanticide, exposure of the child or suicide of the widow. Society is generally complacent; but the better-educated younger generation is not prepared to condone illicit sexual relations and their shocking consequences for women. Consequently they evince a rational attitude: they would regularize illicit relations by means of widow-remarriage.

Childlessness is on a different footing. Recognition of childlessness as a valid ground for remarriage is both rational and humane. A child both cheers and gives meaning to a widow's life, becoming the centre to which all her feelings of love and affection are directed. The absence of a child, particularly a male one, not only intensifies her pathos and emotional vacuity but aggravates the prejudices of the family and society in which she lives. Those teachers in my sample, therefore, who qualified childlessness as a ground for remarriage, generally reflected an opinion which is considerate; although some were content to base it on purely sexual or economic considerations.

The prevailing attitude of many educated people towards widows shows that they are touched by circumstances of tender age and emotional craving, and that they are influenced by the decline in the moral tone of our society. Theirs is a humane approach to the question and provides a refreshing change from traditional attitudes. It does not, however, amount to recognizing that marriage is a question of individual choice and judgement. Most people will still not agree in principle that the widow is free to decide herself whether to marry again.

We have so far analysed the change in traditional norms in so far as it affects opinions. This change is evident on the behaviour level also, for about 1,200 widow-marriages in Gujarat alone may be safely assumed to have taken place since the passing of the Widow Remarriage Act of 1856. This cannot be considered a satisfactory achievement however, due to the relatively much larger number of widows in the country, particularly child-widows. The reason for this unhappy situation was the dominating influence of tradition and caste. In the first forty years of the Act's operation the parties to widow-marriage and their sympathizers were excommunicated and at times even threatened with murder. Police protection was often necessary for the marriage ceremony to be completed and for escorting the participants. Attempts were made to keep female children from receiving education so that they would remain uncontaminated by progressive influences. In Bengal 'many a widow had literally to be stolen from her parents' home'. 'In the absence of any public institution where these widows might find shelter and education, they had generally to be accommodated in Brahmo families, whence, as opportunities arose, they were married out.'[19]

With the gradual decline in caste authority, opposition to remarriage has relaxed—although more in theory than in practice. A study by P. R. Mokashi of 7,430 marriages (of which 6,482 were Hindu marriages) that took place in Poona district in 1955 and 1956 reveals some interesting behavioural facts. Out of the total of 6,482 Hindu marriages, only 114 (1·7 per cent) were by widows, of whom 83 married widowers and 9 married divorcees; only 22 married a man who had not been married before. This is in contrast to the fact that virgin girls were married by 309 widowers, 106 divorcees and 13 married men; i.e. 5·8 per cent of all the marriages were between a virgin bride and a once-married groom. Of the 22 widows who married bachelors, 6 married outside their caste or community, and of the remainder 4 were in the Maratha caste, 1 in a scheduled caste and 1 in the non-artisan, intermediate caste. Some of these castes have no traditional ban on widow-remarriage: the significant widow-marriages in this survey are 7 among Brahmins (where the total number of marriages in the survey is 2,084) and 3 among non-Maharashtrians (total 458), i.e. 0·4 per cent. These marriages were predominantly urban. There were only 3 rural widow-marriages (Mokashi's definition of rural is very wide, and includes district towns), of which one was an intercaste marriage.

The limited change of pace is also due to tradition still dominating even the ideology of the intelligentsia. One of the reasons for this can be found in the cultural setting of the community. Literature, drama and the press have been the chief media of communication available to the cultured *élite*. Refusing to accept the traditional norms and being convinced of the need for change, poets, novelists and dramatists in the second and third decades of this century began to idealize widowhood. Kalapi wrote, 'There is greater purity in widowhood than in the married state (*saubhāgya*). There is greater purity in *bhakti* (life dedicated to God) than in *śṛṅgāra* (life of material pleasures). God gives even misery to a person for his own good. We with a limited vision fail to probe that sublime purpose. It is a privilege to suffer in life and preserve the memory of one whom you loved and with whom you enjoyed your life.' And Nanalal, who to young people was an ideal poet, declared: 'There is no other sin as heinous as remarriage for a woman who has contracted love-marriage. There is no merit as laudable as remarriage for a woman who has contracted physical marriage (*dehalagna*).' But Nanalal and others like him failed to convey unorthodox ideals. In Nanalal's day 29 out of every 1,000 women in Gujarat married at the age of five and below, 160 between five and ten, and 542 between ten and fifteen.[20] With the literacy rate at less than ten per cent, how many of them were educated at the time of marriage? To write of love-marriage in respect of these illiterate infant or child wives merely seemed to demonstrate the hollow idealism of the poet who escapes from reality. Even Gandhiji idealized widowhood and addressed the widow as renunciation incarnate, *tyāgamūrti.* The dramas of the day also drew upon traditional themes and inculcated traditional ideals. Although only a small section of the community was nurtured through literature, a vast majority was drawn to the drama for inculcation in the traditional ideology. The media of cultural communication, while instilling the social ideal, kept the cultural ideology beyond the realm of reason. That is why change in the social situation is accepted on the opinion and behaviour levels without challenge to the traditional values. The effort, however limited, to make changes in ideology and behaviour correspond to each other reflects the emergence of rational thinking and holds out hope for the reorientation of privileges and obligations of individual partners on rational principles.

That the marital rights of women accorded by society are more restricted than those of men is also evidenced by the fact that not only is a man free to take a second wife on the death of the first, often immediately after, but his right to bigamous marriage has not been questioned until recent times. Bigamy was considered an offence under the Indian Penal Code only for a female. Though it was not practised on a wide scale, its significance lies in recognition of it as a man's privilege. Until recently, it was not rare for educated men to contract a second marriage, superseding the first wife even after many years of married life. Respectable persons attended these marriages and gave them social prestige, and the educated people whom the author approached as late as 1953, when legislation against it was in force in many States, did not condemn bigamy in principle. Only 10 per cent of the teachers in the author's sample condemned it as incompatible with the principle of social justice or derogatory to the status of woman.[21] The cultural and moral uprightness of about 20 per cent led them to stamp it as socially undesirable, 'uncivilized', 'against our culture'. A further 8 per cent spoke of marriage as a spiritual union of two people and fidelity to one's wife as its natural corollary and expression. Ideally this is true, but as bigamy has been socially accepted it has remained wishful thinking. In fact the acceptance of bigamy as a man's privilege and its practice over centuries has made the concept of marriage as a spiritual union of the two partners meaningless. If educated people fail to condemn bigamy much less can be expected of the mass of people who have not learnt the ideals of liberalism and who are buried under the dead weight of tradition.

An opinion widely held amongst the graduate teachers interviewed by the author was that bigamy brings in its train various problems for the double husband: it imposes financial strain (12 per cent of the replies against bigamy); it disrupts domestic harmony in various ways—by jealousy, quarrels between the two wives, with misery for both of them and the husband—proving psychologically too challenging and unsatisfying (35 per cent); it is physically ruinous (5 per cent). It is evident that over half of the teachers opposing bigamy are concerned with conflict and tension suffered by the husband in a bigamous family, though some of them may also have the suffering of the wives in mind.[22] Although the privilege of bigamy is regarded as neither irrational nor unjustifiable by a large majority of the intelligentsia, recognition has emerged that it is incompatible with the economic and psychological well-being of happy family life. This awareness, strengthened by the old cultural ideal on the one hand and the new concept of sex morality on the other, represents a change from the traditional attitude to the rights and duties of marriage partners. It is this awareness that has enaided recent legislation to be passed. There was no opposition in the Assembly against the provision of the Hindu Marriage Act prohibiting and penalizing bigamy on the part of man, and even though a hue and cry was raised against the provision for divorce when the Hindu Code was piloted, it was accepted in the Hindu Marriage Act of 1955. It is necessary to examine the historical background in order to understand this peculiar situation.

Manu declared mutual fidelity till death as the essence of *dharma* for the husband and the wife because, according to him, man and woman, united in marriage, should constantly so exert themselves that they may not be disunited and may not violate their mutual fidelity.[23] In spite of this, as we have seen earlier, Manu permitted supersession of the wife both in the absence of a male child and, theoretically at least, for her sharp tongue or rebellious nature. Supersession on the former ground is accepted by many as valid simply because *dharma* is the focal point of marriage.

According to Kauṭilya a second marriage was permissible when the first wife failed to bear a male child within eight to twelve years of marriage. But 'in case of violating this rule he shall be made to pay her not only *śulka*, her property (*strīdhana*) and an adequate monetary compensation but also a fine of 24 paṇas to the Government'. In fact Kauṭilya considered neglect of intercourse with the wife after her monthly ablution as a violation of *dharma*, and consequently he prescribed as her waiting period (for second marriage) only a few menstrual periods instead of the years prescribed in the case of barrenness of wife or birth of female children alone. Kauṭilya emphasized, as other writers have done in a different context, that the fertile period in the life of a woman should not go to waste; and if a husband or a guardian is guilty of allowing it to do so, the woman should on her own initiative contract a marriage in order that the time be utilized fruitfully. Kauṭilya probably viewed the fulfilment of this marital obligation as a primary duty of the man. As for the other grounds for supersession given by Manu, we have noticed earlier that they were neither usual nor satisfying. This can be substantiated by contemporary and earlier evidence. According to Kauṭilya, a woman of refractory nature or one moved by jealousy or hatred, showing cruelty to her husband, had to be taught manners by reproaches or mild punishments. Even as late as the ninth century A.D. Medhātithi held that 'he shall not abandon his wife even though she be hostile to him'.[24]

The Dharmaśāstra-writers stressed fidelity and devotion to the husband as the guiding principles of a woman's life. This expectation culminated in the ideal of *pātivrātya* in the epics and the Purāṇas. At the same time, by enunciating the theory of *anuloma* marriage, they provided social sanction for the practice of hypergamy and consequently for polygyny. Likewise the right of supersession of the wife, though intended to be exercised for a limited purpose and with great restraint, conferred a privileged status on the husband. In general this approach caused the domineering position of the husband and the submissive attitude of the wife to become the approved norms of Hindu marriage.

Nevertheless, such a discriminatory attitude must have appeared unjustifiable to the Dharmaśāstra-writers themselves since they sought to justify their iniquitous demand for lifelong faithfulness of the wife by exaggerating woman's sexual propensity. 'The sex urge in her is so great that she will cohabit with any man she meets, irrespective of his age or appearance. If she be chaste, it is because she has not found a proper man, place or opportunity.' 'A man can never guard women by words, law or punishments of various kinds for they are always unbridled. He who tries to watch over them beats the air with his fists.' This exaggeration of a woman's sexual impulses was the result partly of the chastening moral attitude evident in the post-Vedic age, partly of the Brahmanic reaction to the growing sex morbidity of the Smṛti period as revealed by the increasing popularity of the Tantric practices, and to a certain extent of the degenerating influence of the decadent Buddhism. The great Śaṅkarācārya at the beginning of the ninth century with his nationwide influence cried halt to the chaotic religious situation, and its attendant moral laxity, by preaching a life of restraint and renunciation through his philosophy and practice. The Brahmin lawgivers, on the other hand, did not seek escape from the reality and taught restraint in normal life. This brought into being the consequent demand for woman's lifelong fidelity. What is strange, however, is that restraints were imposed arbitrarily on the woman, leaving the man free.[25]

The privilege of superseding the wife was initially very restrictive both in its scope and exercise. It was justified on grounds of *dharma*. But recognition of this discrimination in favour of the husband developed in course of time into frequent assertion of his privileged position which neglected the approved reason for it: *dharma*. Manu observed: 'The wife should wait for her husband for eight years if he has gone abroad on some virtuous mission and for six years if he has gone for further studies and for three years if he has gone on a visit to another wife or for such other purposes.' He did not, however, say what was the next step the wife should take. From the way he depicted such situations one can infer that his intention was that the wife should take another husband. However, he was silent on this important point probably because he also stood for a philosophy of marriage that was not consonant with such a step. 'The husband and the wife should always treat each other in such a manner that no occasion may arise for them to separate from each other.' 'A wife does not cease to be a wife even if she is bartered away or deserted by her husband.' 'A partition, the gift of the hand of a maiden and a promise can be made but once.'[26] As a matter of fact, for a long time after Manu, she was permitted to take a second husband when the first husband failed to perform his marital obligations due to his being impotent, renouncing married life for asceticism, or being long absent and unheard of. Kauṭilya, indeed, explicitly stated that if a husband was of bad character, or was long gone abroad, or had become a traitor to his kin, or was likely to endanger the life of his wife, or had fallen from his caste, or had lost virility, he could be abandoned by his wife. 'A woman hating her husband cannot dissolve her marriage with him against his will. Nor can a man dissolve his marriage with his wife against her will. But from mutual enmity divorce may be obtained. If a man apprehending danger from his wife desires divorce, he shall return to her whatever she was given at the time of marriage. If a woman, under the apprehension of danger from her husband, desires divorce, she shall forfeit her claim to her property. In the case of marriages contracted according to the first four modes, divorce is not possible.'[27]

Kauṭilya disapproved of divorce in the proper (*dharmya*) modes of marriage. Following the writers of the Dharmasūtras he regarded the first four modes of marriage, brought about with the approval of the father, as ancient and *dharmya*. Although other modes of marriage must have been regarded as *adharmya* as they did not have the approval of the father, Kauṭilya summed up his discussion of the different modes of marriage by saying that 'any kind of marriage is approvable provided it pleases all concerned'. He does not appear to have been much concerned about the classification of *dharmya* and a*dharmya* marriage, and therefore his refusal to allow divorce in *dharmya* marriages is of no great consequence.

From Kauṭilya's law of marriage, which attempted to give woman her due status, it may be deduced that the fetters put on women and the freedom given to men in the Dharmaśāstra texts did not reflect the norms of Hindu society of that period. Inequality between the partners in marriage is the logical consequence of the inferior status accorded to woman by the Brahmanic writers of the post-Vedic age.

The greatest tyranny of the male over the female lies in the privilege of supersession enjoyed by the Hindu husband. This tyranny could be minimized by prohibiting bigamy on the one hand and by allowing the superseded wife the opportunity for divorce on the other. Divorce alone will not better the position of women because a majority of them are economically dependent on men and it would be difficult for a divorced woman to find someone else to marry her. It will only ease in some measure her mental torture and the intolerable existence that follows supersession. Facilities for divorce would, however, usher in a new concept of marriage. The first legislation in respect of the dissolution of marriage was very probably that enacted in Kolhapur State in the 1920s. In Baroda State an Act was passed in 1942. According to this Act, dissolution may be granted if either party has disappeared for seven years, has become a recluse, has been converted to another religion, is guilty of cruelty that might cause danger to life or limb, to bodily or mental health, or such as would give rise to a reasonable apprehension of such dangers, is guilty of desertion without reasonable cause for more than three years after cohabitation has commenced, has been addicted to the use of intoxicants for more than three years and is thereby unable to fulfil the marital obligation, or has married a second time. A marriage may be dissolved on the ground of adultery 'unless the adultery has been connived at, or has been committed through collusion, or has been condoned by resumption or continuance of conjugal cohabitation with the understanding and belief that adultery has been committed'. A wife can ask for dissolution of marriage 'if the husband is impotent at the time of marriage and at the time of the suit, if he is in the habit of committing an unnatural offence, or if the husband and wife are major, and though the wife is willing to stay with the husband, the husband does not allow her to stay with him, without reasonable cause, for more than three years'. On the dissolution of marriage the party is allowed to contract a second marriage, if desired, 'after the expiry of six months from passing the decree absolute or after rejection of the appeal if such appeal has been preferred'.

The outstanding achievement of the Act is that the woman is allowed to separate from her husband when marriage obligations are not properly fulfilled. She can likewise divorce a husband who is excessively cruel or too much addicted to intoxicants. But greater than this is that fidelity, hitherto an obligation on one side, is now demanded on both sides.

The Bombay Government also passed, in 1947, an Act permitting divorce. Under this Act impotency, lunacy, leprosy, desertion for a continued period of four years, absence for seven years leading to the reasonable presumption of his being dead, and bigamy, are the grounds on which divorce is allowed. Madras and Saurashtra followed Bombay State in providing opportunities for divorce, in 1949 and 1952 respectively. With the passing of the Hindu Marriage Act in 1955 dissolution of marriage is now provided for on an all-India scale by a decree of divorce on petition from the sufferer that the other party (*i*) is living in adultery, (*ii*) has been of incurably unsound mind for a continuous period of not less than three years immediately preceding the petition, (*iii*) has, for a period of not less than three years immediately preceding the petition, been suffering from a virulent and incurable form of leprosy, or from venereal disease in a communicable form, (*iv*) has not been heard of as being alive for a period of seven years or more by those persons who would have naturally heard of it had the party been alive. Conversion to another religion and renunciation of the world are other grounds on which divorce may be claimed. Failure to resume cohabitation for two years or more after the passing of a decree for judicial separation or failure to comply with a decree for restitution of conjugal rights for two years or more after the decree would also entitle the aggrieved party to petition for divorce. A wife can also sue for divorce if the husband is guilty of bigamy, rape, sodomy or bestiality.

Even while providing for divorce the Act seeks at the same time to minimize the opportunities for it: 'It shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition three years have elapsed since the date of the marriage.' A petition may be allowed to be presented before three years only 'on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent'. But in accepting the plea for an early petition, 'the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said three years'. Again, the husband is required, while the wife remains chaste and unmarried, which may be the rest of her life, to pay her for her maintenance and support, such regular sum of money as seems just, having regard to her own income and other property, if any, his income and other property, and the conduct of the parties. And this shall be, if necessary, a charge on the husband's immovable property. Further, the divorcee is not allowed to contract a second marriage until one year after the decree of divorce or the disposal of the appeal. The apprehension that the legislation makes divorce easy and consequently treats marriage lightly has obviously no foundation.

The principle of divorce is alien to the social pattern in which Hindus have been living for centuries. It is quite understandable for men not to welcome 'the overthrow of their long and firmly organized control of women's sexual conduct'. The Hindu woman has been asked to put up with all sorts of repressions and suppressions in the name of family honour and for the good of the children. Here we see the roots of the fears expressed by our national leaders on the floor of the Assembly when the Bill was discussed. It is generally argued that if legislation is allowed to interfere with the sacrament of marriage, the institution of marriage will break down. This fear is unreasonable and unfounded. If, however, we were to concede that it would mean the collapse of the institution of marriage, we should admit that the collapse is only artificially arrested by the imposition of restrictions on women. If so, is it not worth while to scrap these artificial checks for marriage to be worth the name?

The fear that legislation will bring about chaos is unfounded because it ignores the fact that legislation alone cannot change the social ideals of a community unless people are favourable to it. How far people's attitudes have changed can best be judged from studies in communities where divorce is allowed customarily.

In a survey of 363 divorce cases in Poona district carried out during 1964-5 by Dr Y. B. Damle,[28] the Marathas (53·18 per cent) and intermediate Hindus other than artisans (14·88 per cent) account for about 70 per cent of the 353 Hindu divorces (the remaining 10 were Muslim), while the high castes (9·64 per cent) and the depressed castes (10·19 per cent) account for about one-fifth. These figures, however, shed no light on the relative popularity of divorce among castes because, first, they are not related to the percentages of these castes in the total population of the area surveyed; and, second, some of these castes allow divorce customarily. The majority of persons who are divorcees (about 51 per cent) are agriculturists and about 18 per cent belong to the salaried group. The general level of literacy is very low: more than 60 per cent are illiterate, 13·5 per cent are semi-literate (i.e. up to vernacular standard IV) and 9·6 per cent have studied up to vernacular standards V to VII.*

The period of married life before divorce extends to ten and more years in the case of 139 (43·5 per cent) persons and seven to nine years in the case of 85 (26·6 per cent); 95 (29·9 per cent) have a shorter period of married life, of which 63 (19·9 per cent) a married life of from four to six years.† Of these marriages, 286 have not proved fruitful and 62 have produced only one child. Therefore, although 70·1 per cent of them have lasted seven and more years and 90·0 per cent for four and more years, 78·7 per cent have proved barren and 17 per cent have proved not very fruitful. Under the circumstances it is not surprising that about 25 per cent of the divorces in each of the caste groups, excepting the Brahmins and the Mahars (where the percentage is 11), have been obtained on the ground of childlessness.

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* Of the 363 persons covered by the survey, 122 did not indicate their level of literacy. These percentages are worked out on the basis of the total number, not of the number (241) whose degree of literacy is known. The general level of literacy is therefore even lower than this suggests.

† Only 319 persons gave the period of married life, and the percentages are worked out on the basis of that number.

The other grounds on which divorce was sought are:

1. Obligations of marriage not properly fulfilled	24
Diseased, disabled or imbecile wife (14 cases) or husband (7 cases); physically immature wife (3)	
2. Happy married life rendered impossible	75
Husband either stays away (3) or has another wife (4) or a keep (15); wife is immoral (53)	
3. Domestic disharmony:	
(a) Quarrels between the partners (47); bad treatment of wife (30); family quarrels (9)	86
(b) Wife does not want to live with husband	67
4. Miscellaneous	4

Divorce on grounds of childlessness is generally the result of religious as well as emotional factors. Nevertheless, the number of divorces arising from the various features of domestic disharmony is large. The number resulting from an illicit connexion even after a long period of married life is another striking phenomenon. Of those who sought divorce for this reason, 21 had a married life of from one to five years, 30 of six to ten years and 18 of eleven to nineteen years. Similarly, in the case of those who sought divorce for reasons of domestic disharmony, 36 had a married life of from one to five years, 65 of six to ten years and 39 of eleven to nineteen years. In other words, in the case of 31·4 per cent of the persons who responded there was no adjustment in marital relations even when married life had extended over five years, or in more than 11·7 per cent when it had extended over more than eleven years.

Divorce behaviour varies from one caste to another. The table on page 190 shows that illicit relations are a major ground of divorce among artisans and the depressed castes, as domestic disharmony is among the intermediate and high castes.

It is not possible to determine whether education exercises any restraining or corrective influence with regard to divorce. Dr Damle's survey indirectly suggests the following effect: 40 per cent among the illiterates and 35 per cent among the semi-literates sought divorce for reasons 3(a) or 3(b), but the percentage is only 20 among those educated beyond four standards.

Castes	Barrenness	Reason (see page 189)				Total who replied	Total in survey
		1	2	3(a)	3(b)		
High Castes ...	11·4%	8·5%	14·3%	37·1%	25·7%	34	35
Marathas ...	26·9	7·7	18·7	19·2	20·8	180	193
Artisans ...	23·5	11·8	29·4	23·5	11·8	17	17
Intermediate Castes ...	26·0	—	16·6	37·0	9·3	48	54
Depressed Castes	10·8	5·4	37·8	18·9	21·6	35	37
Unspecified ...	5·9	11·8	35·3	29·4	17·6	17	17
All castes ...	22·4	6·8	21·3	24·3	18·9	331	353

Mrs Hate found that about 62 per cent of the women contacted by her were in favour of a law of divorce and only 20 per cent were against it. Mrs Gunial Desai found 47 per cent of her sample in favour of divorce and 49 per cent against it. The number preferring divorce would have been still higher in these surveys but for the fact (as the replies of the respondents clearly indicate) that many of them, being incapable of supporting themselves, declared themselves against it in view of the consequent risk of starvation.[29] About half the number of the graduates interviewed by the author considered divorce desirable ; as against this about one-fourth considered it undesirable and 17 per cent considered it harmful. For two reasons the surveys of Hate and Desai are more suggestive of the impending crisis than mine is. First, they reflect the opinions of women, whose interests are more at stake than are those of men. Secondly, the women interviewed lacked higher education, were little affected by the cultural ideals of the West, and were orthodox in their strong attachment to Hindu traditions and sentiments. If they favoured a provision for divorce it was because the traditional norms impose upon them very heavy burdens which they can no longer carry either cheerfully or in a mood of passive resignation. In the five years following legislation against bigamy in Bombay, 2,000 cases of bigamy were recorded by the police, and 5,500 applications were filed for dissolution of marriage on this count, 3,000 of them being from women. That traditional beliefs have been broken down by legislation is belied by the fact that the Widow Remarriage Act, which has been in operation since 1856, has seldom been availed of. On the other hand, the results of these surveys indicate that the sufferings of Hindu women have reached such scandalous proportions that they will not much longer feel too shy to avail themselves of legislative relief against the tyranny of social conventions and ideals. An analysis by Dr B. Kuppuswamy of the change in attitude towards divorce highlights the fact that there is a more or less uniform response in favour of divorce irrespective of the age, sex, rural or urban residence, or literacy of his respondents.

The next question is on what grounds should divorce normally be allowed. The author's graduate-respondents have given situations under which they consider divorce should be permissible.[30] Their views are presented here in the framework provided by Damle's study so that a proper assessment of the relationship between current practice and the modern attitude to sex ethics can be made. Kuppuswamy's analysis of the change in attitude towards divorce[31] will also help us to interpret the situations viewed by my respondents.

1.	Childlessness (9)	9 —	1·0%
2(a).	Sexually defective married life (34); impotency (62) ...	96 —	10·8
(b).	Forced marriage (16); fraud in marriage (8); inequality of age (3)	27 —	3·0
(c).	Husband absent and not heard of (17)	17 —	1·9
(d).	Venereal or incurable diseases (73)	73 —	8·1
(e).	Lunacy (52)	52 —	5·8
3.	Faithlessness (33); debauchery (31)	64 —	7·1
4(a).	Cruelty, harassment (47); partners unhappy, harmful to one another (61): quarrels, disharmony (85); incompatibility of temper (86); compromise and adjustment not possible (161)	440 —	49·1
(b).	No love (20)	20 —	2·3
(c).	Husband drunkard (4); unable to maintain family (9) physically defective (42); criminal offender (4) ...	59 —	6·6
5.	Separation mutually agreed to (38)	38 —	4·3
		895	

Childlessness was one of the important grounds for divorce in Damle's survey; but educated people do not attribute as much importance to a child as to the fulfilment of marriage, and in this survey only a very few graduate teachers allow divorce for this reason. Even Kuppuswamy found three-quarters of his respondents against dissolution of marriage on the ground of the wife's barrenness. Though in his analysis education does not appear to influence opinion in this respect, 76·17 per cent of the illiterates having voted against divorce on account of barrenness, the fact remains that a very high percentage of the college students (84·37 per cent) opposed divorce on this ground. This change in attitude is a significant one when viewed in the light of Hindu tradition which permitted bigamy, often with the consent of the first wife, in the absence of a male child.

Divorce is also permissible if the parties to the marriage fail to perform their marital obligations. Kuppuswamy's survey is interesting in this respect. Whereas 73·18 per cent of the males in his sample favoured divorce in case of impotency only 47·54 per cent of the women were in favour of it. He believes that 'probably the women do not like dissolution merely on this ground since other values in marital relationship are esteemed more'. It transpires from his analysis that as against 47·85 per cent of those in the age-group 30-39, 60·08 per cent of those between 25 and 29 and 67·35 per cent of those between 20 and 24 were favourably disposed to divorce on this ground. Also, 65·52 per cent of the high-school-educated and 74·99 per cent of the college-educated expressed themselves in favour of dissolution. That education appears to have some influence on public opinion in this regard is confirmed by the fact that only 35·04 per cent of the illiterates were favourably disposed to divorce for this reason and 63·3 per cent of the labourers were against it. The respective attitudes of the higher and lower castes provide further confirming evidence: 70·39 per cent of the Brahmins and 72·23 per cent of the Lingayats favoured dissolution; 68·18 per cent of the Harijans, on the other hand, were against it. In view of the opinion against divorce in case of childlessness it can be said that in favouring divorce on ground of impotency conjugal happiness is in the forefront of the minds of the respondents.

More than three-quarters of Kuppuswamy's respondents believed that the marriage tie should be dissolved if either of the partners is incurably mad. A similar response is evident to the case of the husband or wife suffering from a virulent and incurable type of leprosy. The college-educated (71·47 [rural] and 70·88 [urban] per cent in the case of insanity and 75·88 per cent in the case of leprosy) agreed. The younger generation is favourably disposed to divorce in either case while the older people are more divided in their opinions.

The difference of opinion between the two generations is significant as it reflects a change in views towards marital relationships. The older generation with its ideal of *pātivrātya* was unmindful of the fulfilment of marital obligations on the part of man; but the wife was expected to put up with an impotent, insane or diseased husband as her obligation in marriage. This is confirmed by Damle's survey. The new generation attaches importance to marital obligations on both sides, and if the husband fails to fulfil his obligations as a result of certain contingencies it should be open to the wife to ask for a dissolution of the marriage. What is pertinent here is the fact that these contingencies having been declared legal grounds for divorce have also been accepted as valid grounds by the people themselves. The law may thus be said to have provided for the satisfaction of new needs in the social *milieu*.

Of Kuppuswamy's male respondents 89·34 per cent would favour divorce if the wife is found to be unfaithful. Even man's freedom in this respect is not looked on with favour, but the fact is that only 55·24 per cent of the males favour dissolution in the case of his infidelity—and among Hindus the percentage is only 49·16. Equal consideration for man and wife is still far off. What is curious is that the percentage of women challenging this privilege of men is only 47·17 per cent, and 67·36 per cent of them condemn adultery on the woman's part. Likewise it is observed that 'only 20 per cent of the widowed (all women) assert that the marriage should be dissolved if the man's behaviour is not all right and only 13·3 per cent of the divorced (of 14 only one is male) assert the same'. Woman is thus an advocate of traditional behaviour even at her own cost. Another interesting fact is that whereas all castes, except the Harijans, favour divorce if the woman misbehaves—the percentage varying from 79·38 to 85·04—it is only the Brahmins

(63·75 per cent) who are prepared to condemn the man if he misbehaves, other castes being far behind (varying from 36·61 to 44·44 per cent). The Harijan is no exception to this trend: 43·94 per cent condemned the wife's adultery but only 10·60 per cent were prepared to condemn adultery on the part of the man. The challenge to the man's privilege comes from the highly educated, 63·73 per cent of the college-educated and 49·66 per cent of the high-school-educated. This view is also held by 63·90 per cent of the teachers, 07·74 per cent of the engineers and 67·35 per cent of the lawyers (as against 11·92 per cent of the labourers and 58 per cent of the businessmen). Though it is said that 'with the increase in earning the attitude towards the moral lapse of man becomes more strict', it is in fact education that has influenced the attitude. At the same time, 92·34 per cent of the college-educated as against 59·8 per cent of the illiterate condemn a wife's adultery. And that the change in the traditional attitude is evolving gradually can be seen when these opinions are viewed in terms of different age-groups:

Age	In favour of divorce in case of	
	Man's infidelity	Woman's infidelity
Below 20	57·81%	75·55%
20—24	53·20	82·24
25—29	44·99	78·54
30—39		80·69
40	39·27	85·13

These views were evident also from replies to the question: 'Can the husband or wife ask for judicial separation if the other has committed adultery?'

Another interesting fact that emerges from Kuppuswamy's analysis is how reluctant the man is to forgo his privilege. 'While 55·63 per cent of those who are unmarried favour dissolution of marriage if the behaviour of man is not correct only 47·36 per cent of those who are married are in favour of dissolution. (C.R.—2·91)' It will be remembered that in Damle's Poona survey, adultery was a frequent ground for divorce.

It is 'living in adultery' that the law recognizes as a valid ground for petition for divorce. The law's insistence on continued adulterous relations, which is more rigorous than current practice or opinion, is because the purpose of the law is to make occasions for divorce as few as possible. Nevertheless, in so far as it differentiates between separation and dissolution, the first step may be said to have been taken; the question of terminating the marriage for a single lapse needs more time and deliberation.

The most outstanding observation to be made from Kuppuswamy's analysis is that the factor of rural or urban upbringing of men and women is not significant to the change in outlook on marital relations. Age and literacy—and they often go together—on the other hand do influence to a certain extent people's points of view. Another point is that Brahmins and Lingayats both tend to hold non-traditional views in this respect, whereas the other castes are lukewarm and Harijans are predominantly tradition-minded.

Nearly 58 per cent of the author's respondents thought it a good case for divorce when the two partners themselves feel that they cannot continue together.* This may be because they do not love each other, or because they have failed to adjust themselves to each other's shortcomings, or because the incompatibility between them is such that compromise is impossible. The husband may be addicted to drink, quarrelsome or cruel. He may even have criminal propensities. In such cases there is an intolerable burden, domestic felicity is unattainable, and it is torture for at least one of the partners to continue in marriage. In the traditional Hindu society the husband had the privilege of superseding his wife or taking a second wife. His lot was therefore not as painful as his wife's. The wife's misfortune was all the greater because she was economically dependent on her husband, but the law did not permit divorce. Against this background any change in public opinion is of the utmost significance. The younger generation is for a new relationship in marriage, in which each partner must be able to share with the other his or her aspirations and interests. If this cannot be done there is no sense in keeping them tied in bondage. It is in the interests of both, and of their children, that they should have freedom to part and live in their own way.

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* Damle found that a majority of even his cases sought divorce on this ground.

Modern scientific thought has clearly shown that there is nothing inherent in the fact of sex which denies woman any privilege. Inferiority of woman is socially imposed, and cannot be explained on rational or psychological grounds. The consequence is woman's demand for equality and her insistence on recognition of her personality. With the coming of the industrial revolution new opportunities were created for women to be occupied gainfully. As well as working in factories, women have sought employment as nurses, teachers, typists, etc. and have taken to the legal and medical professions. In the two world wars, women were widely recruited for service, with the result that they began to achieve economic independence. Free mixing of the sexes is now more prevalent and women seek to develop individuality and a sense of equality, conceptions with which their education has made them familiar. The modern woman is no longer prepared to accept a social code which recognizes the dominance of the male as binding on her. Conventional morality is receding into the background, and emotional integrity has become the ideal of marriage. Further, the democratic ideal to which Indians are now committed by their Constitution and which has been defined as political, social, religious and economic equality, lends force to economic processes and the findings of psychological investigations.

The development of new *mores* in sex is generally resented in a society which has its roots in tradition and religious belief. Conventional sex morality cannot however stem for long the tide of a new awakening. The need for a new concept of sex relationships is now recognized as much by the older as by the younger generation ; only this recognition has not percolated to all layers of Indian society. Change is hence slow and therefore less dramatic than, say, in the case of Russia. Social coercion and legal sanctions become less necessary when society accepts the principle that the sex life of responsible adults is their own concern. This principle provides for the satisfaction of the emotional requirements of the partners in marriage, a factor of which our social ideology has, in the past, taken no account. To ignore this emotional aspect of marriage is to encourage psychological tensions which are bad for the partners themselves, the society of which they are members, and the children for whose proper upbringing both parents and society are responsible. Nimkoff writes: 'A home torn by strife conditions the child in habits of pugnacity and it causes him to react violently against the whole familial situation. Illness, nervous disorders and even nervous breakdowns may be the child's responses to the hostile forces arrayed against him.' There is nothing sinister or dangerous in the concept of freedom in marriage. According to Ellis, freedom cannot destroy but rather confirms marriage's stability and purifies its practice.[32] In short, marriage continues to be a sacrament; only it is raised to an ethical plane. We rather go back to our Vedic ideal embodied in the *saptapadi* formula: 'I take thee to be my companion in life.'

9

MARRIAGE IN ISLAM

In pre-Islamic Arab society the prevalent form of marriage was polygamy. According to Robertson Smith, the early Arab marriage was characterized by three features. A woman was free to choose her husband ; she received him in her own tent and dismissed him at her pleasure. The children born belonged to the woman's kin and grew up under their protection. This marriage, which he chooses to call *beena* marriage, was later on replaced by *baal* marriage, marriage of dominion, under which the woman came to live with her husband and the children belonged to the husband's clan. The woman lost her original freedom to dismiss her husband at pleasure. On the other hand, divorce became the sole privilege of the husband. But this new form of marriage could not completely obliterate the old practice, which lingered on until the days of Muhammad in the form of *muta* marriage. This was a union brought about by the mutual consent of the parties without the intervention of the woman's kin. The contract was stipulated for a specific period, and during that period the woman could not divorce her husband. The woman was not deprived of her original freedom, though it came to be limited, and her kin continued to own her children.[1]

According to one tradition, *muta* marriage was not altogether abolished until the time of Omar. Though it was not looked upon favourably by the Prophet, *muta* marriage continued to be practised in his day and even afterwards. Not only did the Quran allude to it but ' the Shiites, who are the strict followers of the Quranic precepts and differ from the Sunnites by their emphasis on the validity of the Quran alone, practised this form of marriage in Persia and other Shiite countries'. Such a wife is known as the *sigha*. Unlike the ordinary wife the *sigha* has no legal claim to maintenance and does not inherit from her husband. Yet the children are perfectly legitimate and inherit their father's property.[2] Though the Prophet could not abolish the practice he did condemn it. He called it 'a sister of harlotry'. This attitude of Islam toward a contemporary practice gives us some insight into the nature and purpose of Muslim marriage.

The characteristic feature of *muta* marriage is that it is contracted for a specific period of time. Is it this impermanent character of the *muta* marriage that made it condemnable in Islamic law? There is a tradition recorded by Bokhari in which the Prophet says: 'If a man and a woman agree together their fellowship shall be for three nights; then if they choose to go on they may do so, or if they prefer it they may give up their relation.' According to this tradition, a temporary alliance could be made permanent if the parties so desired, and hence its temporary character was not its serious drawback. Smith observes that divorce being very common among the Arabs, there could not have been 'any sense of delicacy, any respect for the permanency of the marriage bond, that made *muta* marriage illegal in Islam'. And there is cogency in his argument. Its unpopularity, according to Smith, lay in the fact that 'in *muta* marriage the woman did not leave her home, her people gave up no rights which they had over her, and the children of the marriage did not belong to the husband'. It conceded a greater amount of freedom to woman, and it did not recognize the affiliation of the child born to the husband's clan. It was thus opposed to the Islamic conception of marriage.[3]

It seems, however, that Islam had more cogent reasons than Smith would like to assign to it for its hostile attitude to *muta* marriage. The matrilocality and matriliny inherent in *muta* marriage clashed with the patrilocality and patriliny that had come to be the feature of the contemporary Arab family organization for which Islam stood. *Muta* marriage was thus an anachronism. Again, it contemplated a greater amount of freedom for a woman in her sex life. Islam attempted to bring about a chastening influence in Arab sex morals, and condemnation of *muta* marriage was one of the restraining influences. Likewise the great task the Prophet set himself was to stabilize marriage. Any element that would directly or indirectly contribute to the instability of marriage could not be approved of as desirable. And again, Muslim marriage implied certain requisites. It was a contract which took place in the presence of a *wali,* often with his consent, and attested by two witnesses. *Muta* marriage, being a personal contract, required neither a *wali* nor a witness. It seems from the episode related by Levy that at times usage permitted *muta* marriage even with a non-Muslim male. Islam's attitude towards *muta* marriage thus appears to have been determined to safeguard the interests of Islam in the contemporary social environs of Arabia.[4]

If Islam gave the right of divorce only to the male, it seems to have been the sole privilege of the female in *beena* marriage. Hence *muta* marriage, as Smith emphasized, is not characterized by right of divorce invested in both the spouses.[5]

The prevalent form of union amongst Arabs in the days of Muhammad was polygyny. Women captured in warfare were either married or kept as mistresses. In addition, marriage could be contracted by paying *mahr,* bride-price, to the father or kin of a woman. In both methods the prominent idea was the husband's right in the woman captured or purchased. This idea of property in the wife found expression in the law of divorce and in the privileges exercised by the husband over his wife. There were two forms of divorce, *khol* or divestiture and *talaq* or dismissal. *Khol* was a friendly arrangement between the husband and the wife's father by which the latter repaid the dowry and got back his daughter. This implied that on return of the consideration the rights that were purchased by the husband came to an end and the woman was set free from his domination. The privileges of the husband over his wife relate to the sharing of his conjugal rights with others, inheritance of his widow by his heir and his absolute discretion to divorce his wife at pleasure. It was customary among Arabs to lend one's wife to a guest to show one's hospitality. An Arab desiring a noble offspring would ask his wife to live with a great man. The husband would stay away for the time being and would return to her only when pregnancy was well advanced. When an Arab was away on a journey he would hand over his wife to a friend during his absence. The Arab was also known to share his wife with a man for tending his sheep. That the Arab had no regard for the chastity of his wife proceeded naturally from the fact that he regarded her as his property which he was free to enjoy or dispose of in any manner he thought best. As the owner he was the best judge of the proper use of his property. As for the inheritance of the wife, Tabari informs us that 'in the Jāhilīya, when a man's father or brother or son died and left a widow, the dead man's heir, if he came at once and threw his garment over her, had the right to marry her under the dowry (*mahr*) of her (deceased) Lord (*sahib*), or to give her in marriage and take her dowry. But if she anticipated him and went off to her own people, then the disposal of her hand belonged to herself.' The throwing of the garment over her by an heir might be a legal symbolism to assert his right over the widow inherited from the deceased. The Quran (IV 23) seems to allude to this practice: 'It is not lawful for you to inherit women against their will, nor prevent them from marrying that you may go off with part of what you have given her.' And the Prophet forbids (IV 26) that the stepmother be taken in marriage 'except what has passed'.[6]

In Islam this idea of property in woman and the idea of purchase in marriage were never completely negatived although the old Arab notions have to a certain extent been improved upon and refined. Islam has perpetuated both forms of divorce current in pre-Islamic Arabia, although there is an obvious leaning toward the form known as *talaq*. There are two aspects of Islamic divorce law that are significant in showing the dominance of man and the veiled conception of property in woman. According to the Quran (IV 19), 'Scourge those who cast imputations (of adultery) on chaste women and then do not bring four witnesses, with eighty stripes.' It is apparent that four witnesses could not easily be produced to prove the infidelity of the wife. It is said elsewhere in the Quran (XXIV 6-9): 'Testify four times that, by God, he is of those who speak the truth ; and the fifth testimony shall be that the curse of God shall be on him if he be of those who lie.' If a husband accused his wife of adultery with this oath, and if the wife kept silence, the charge was proved. It is said in the Quran: 'It shall avert the punishment from her if she bears testimony that, by God, he is of those who lie; and the fifth that the wrath of God be on her if he be of those who speak the truth.' Though, according to this passage, adultery cannot be said to have been proved if the woman was prepared to take a similar oath, Muslim law takes adultery to be proved on the husband's oath and allows divorce on that score. It is not only in the procedure of proving adultery that the man scores over the woman; but in the punishment, too, the woman is humbled. In a Quranic passage (XXIV 2) punishment of one hundred strokes is provided both for the adulteress and the adulterer but in another passage (IV 19) only the adulterous wives are punished, being 'kept in houses' until they die.[7] Evidently the presumption was that the woman was expected to observe fidelity toward her husband. When this obligation of marital union was violated the husband had the opportunity of parting with his unchaste wife.

This demand of chastity from the wife during wedlock is associated with a similar demand made before wedlock. One of the grounds for the dissolution of marriage was that the bride, claiming to be a virgin, was found not to be so by the bridegroom. Infibulation and defloration in public are known to have been practised by Muslims to assure the pre-marital chastity of the bride.[8] The law of divorce, wherein the marriage obligation is one-sided, and the punishment for its breach meted out to the female alone, is a logical corollary of the principle that a woman can be sexually owned by one man only. This dominion of the man over his wife is further asserted by the fact that the man was permitted to divorce his wife at his own pleasure and without justifying his action. And this is not the whole story. Woman was not even free when *talaq*, divorce, was pronounced. She had to wait for three menstrual periods to pass in order to ascertain whether she was pregnant. During this period of waiting, *iddat*, the husband had the right to resume his marital rights over the divorced wife, and she became his wife once again without any further ceremony to revalidate the marriage. Nor was the consent of the wife necessary for this resumption. This peculiar situation is due to the fact that in the old Arabic law the husband's right over the woman was not finally lost by repeating a formula for dismissal. He was still *ahaccu l-naac biha*, had more right to her than anyone else had. It was only when the formula for dismissal was repeated three times or when the period of waiting was allowed to elapse without the husband revoking his act either by express words or conduct, that divorce was complete and the woman was freed from her wifehood.[9]

It is possible that Muhammad was not greatly in favour of divorce as he aimed at the stability of the family. Hence divorce was permitted only 'if the parties fear they cannot keep within God's bounds'. A tradition is also quoted: 'The thing which is lawful, but which is disliked by God, is divorce.' One can also concede the reasonableness of M. Sédillot's view that divorce was permitted, but subject to formalities which allowed (and, we will add. recommended) a revocation of a hurried or not well-considered resolution'. The three months' waiting, introduced by Islam under the old Arabic law, provided a husband with reasonable time to subdue his impulses or to revise his judgement, if it had been taken hastily or in a fit of temper. Opportunity was thus indirectly given for reconciliation, and *iddat* thus served as a restraining influence on inconsiderate haste in, and the tempo of, divorce. The Prophet also sought to minimize the possibility of divorce by enjoining that a divorced wife could not be taken back unless she had been married to someone else and divorced by him. One does not, however, escape the impression that Sédillot has read more into these formalities of divorce than the Prophet actually intended. This is borne out by the fact that divorce has been freely availed of from the time of Muhammad onwards.[10]

It is said that 'towards the end of his (the Prophet's) life he went so far as practically to forbid its exercise by the men without the intervention of arbiters or a judge'. The Mutazilas generally 'consider *talaq* as not permissible or lawful without the sanction of the Hakim ush-Shara. They hold that any such case as may justify separation and remove *talaq* from the category of being forbidden, should be tested by an unbiased judge.' One should, however, remember here that the Mutazilas represent a school which interpreted the Book to evolve an ideal pattern of sex behaviour. Though the Quran has nothing against polygyny, they are, by conviction, monogamist, and they have shown how the restriction on polygyny implied monogamy as a rule in marriage. Their interpretation is, therefore, not very helpful in evaluating the social legislation of the Quran.

The later jurists attempted to restrict the frequency of divorce. According to them, '*Talaq* emanating from the husband (was) really prohibited, except for necessity, such as the adultery of the wife.' Hence, 'The Hanafis, the Malikites, the Shafiis and the bulk of Shiahs hold *talaq* to be permitted though they regard the exercise of the power without any cause to be unlawful.' Bayadawi comments on the Quranic passage (IV 19) dealing with adultery: 'Chastity here implies being free, of full age and sound mind, professing Islam and abstaining from fornication. And there is no distinction made in it between male and female. (Chaste) women are specified in order to give actual examples, or because accusation against women is graver and more culpable.' This attitude of Muslim doctors and commentators is commendable. That they were inspired by a sense of justice and equity towards woman becomes all the more clear from their recommendation that 'the wife also is entitled to demand a separation on the ground of ill-usage, want of proper maintenance and various other causes; but unless she showed very good and solid grounds for demanding the separation, she lost her settlement of dowry.'[11]

Ameer Ali would have us believe that the Prophet 'gave to the women the right of obtaining a separation on reasonable grounds'. The Quranic law of divorce does provide for separation by women but not on terms favourable to them. As the formula for dismissal had to be repeated thrice before the divorce was complete and irrevocable, a woman might be kept in a state of being neither wife nor divorcee. In order to save herself from this state of suspense it was open to her to ransom herself from her husband for a sum agreed upon by both of them, once the husband had pronounced divorce against her. Similarly, when a wife was desirous of divorce, and if her husband agreed to it, she paid back the *mahr* and got herself free.[12] Both these provisions enabling a wife to buy her freedom remind us of the old Arabic *khol* divorce. The difference between the two lies in the fact that while in Arabic law the father could easily secure the freedom of his daughter by returning the *mahr*, the bride-price, in Islam a wife could secure her freedom by returning a part of her marriage gift, *mahr*, only if the husband agreed to it. Islamic law was thus tilted more in favour of the husband.

The husband may delegate to his wife at the time of marriage the power to divorce herself and thus the wife is said to have the right to divorce at her will. But, as Sir Dinshaw Mullah rightly pointed out, 'Such a divorce, though it is *in form* a divorce of the husband *by the wife*, operates *in law* as a *talaq* of the wife *by the husband*.' In other words, the wife exercises the power which is apparently hers under a delegation of power, *tafweez*, but which basically rests in the husband, and as such even in this case divorce basically proceeds from the husband and not from the wife.[13]

The law of divorce therefore asserted man's domination over his wife; and the status of the woman was affected in another way too. 'A system where the wife has continually hanging over her head the apprehension of divorce cannot but prove an abiding source of uneasiness to her.' The later jurists tried to minimize the exercise of this privilege of the husband, but they could not prove the privilege itself to be unsound. In spite of the Prophet's condemnation, the law has for centuries continued to assert man's dominion over woman and the privilege has been invariably abused.

Under the Dissolution of Muslim Marriages Act of 1939, a woman married under Muslim law is entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds: (*i*) the whereabouts of the husband has not been known for a period of four years; (*ii*) failure of the husband to provide for her maintenance (wilfully or due to his inability) for a period of two years; (*iii*) sentence of imprisonment on the husband for a period of seven years or upwards; (*iv*) failure without reasonable cause to perform his marital obligations for a period of three years; (*v*) impotence of the husband since the time of marriage ; (*vi*) insanity of the husband for a period of two years or his suffering from leprosy or a virulent venereal disease ; (*vii*) option of puberty before the wife attains the age of eighteen, provided the marriage has not been consummated ; (*viii*) cruelty of the husband (as amplified in clauses (*a*) to (*f*) of section 2 [viii] of the Act) ; (*ix*) any other grounds recognized by Muslim law.

In Islam, marriage is said to be a contract signed by two parties, one for each side. The consideration of the contract is *mahr*, gift to the bride, the amount of which, not being fixed by law, varies from one dinar upwards.[14] As *mahr* is no longer regarded as the bride-price that it was in the old Arabic law, and as the consent of the bride is one of the requisites of the legal marriage, one might think that there is nothing in Muslim marriage that smacks of the old idea of purchase and consequent property in woman. If the *mahr* in Islam is the *sadaq* of the old Arabic law, and if the bride is the full owner of the property so given, one would like to question whether the old idea, namely that *mahr* was a payment towards purchase, has not lingered on in Islamic law which allows a wife to ransom herself from her husband on payment of a part of *mahr*. *Mahr* is also associated with the consummation of marriage. 'The wife's right to dower becomes complete on the consummation of marriage either in fact or what the law regards as such, namely, by valid retirement, or on the death either of the husband or the wife. In case of dissolution of marriage by the husband or of separation for some cause imputable to the husband before there has been consummation or valid retirement, the wife becomes entitled to half the specific dower and if no dower has been specified to a present called *mutat*. In case the separation was due to some cause imputable to the wife herself, she will not be entitled to any dower or present if there has been no consummation of the marriage.' This association of *mahr* with sexual right in woman is brought out in a number of ways. The amount of *mahr* is considerably higher if the woman is a virgin than it would be if she were a divorcee or a widow. The *mahr* is not paid in full on marriage, and custom differs in various regions as to the portion payable before consummation, the balance generally being paid when the husband dies or divorces his wife. The wife may deny herself to her husband or refuse to go with him on a journey until the fixed instalment of *mahr* is paid to her.[15] The *mahr* is paid to the bride only if she is a free woman. If she is a slave the *mahr* belongs to her master even when her husband is a free man. In spite of this association of *mahr* with sex, it has lost its original identification with bride-price, first because it has come to be equated with *sadaq*, and secondly because the non-specification of dower at the time of marriage does not affect the validity of the marriage.

In the matter of consent the old privilege of the father is also indirectly retained to the detriment of the woman's freedom of choice. This privilege of the *wali* is exercised in two ways. It is the chief duty of the *wali* 'to see that the principle of equality of the parties is maintained, and that the woman over whom he has charge does not make an unsuitable or undesirable match which may bring dishonour on the tribe'. Certain relatives are hence qualified to object to a marriage contracted by a female who has reached majority on the ground that the man is not her equal in lineage, character, property, profession, status or education. It is again the *wali* 'who, on payment of the agreed portion of the *mahr* hands the bride over into the control of the husband. . . . According to the Hanafi code, the *wali* may give in marriage a girl who is a virgin and also a minor, after informing her that a suitor had presented himself. . . . Her silence gives consent, but even if she says that she does not consent the marriage is lawful.' Under Shafii law the marriage of a virgin, even if she has attained majority, is impossible without the consent of the *wali*. Hence the *wali* is called *wali mujbir*. It is only 'when a minor is given in marriage by a guardian other than the father or the grandfather, that he or she can, in the exercise of what is called the option of puberty, refuse to be bound by the marriage and ask the Court to pass a decree annulling the marriage'. If she is given in marriage by her guardian she is now entitled to a dissolution of the marriage if it took place before she attained the age of fifteen and she repudiated it, provided that it was not consummated, before she attained the age of eighteen.[16] (We have reason to believe that marriage was generally contracted before a girl was fifteen. In Egypt, Persia and Chinese Central Asia the marriage age for girls was from ten to fourteen and similar ages are usual amongst the Berbers dwelling in the oases of the Libyan desert.[17] The role of the *wali* in marriage is brought out by another fact, viz. that, while the contracting party on the male side is the bridegroom himself, it is the *wali* on the side of the wife. It may also be recorded that, while the right of repudiating the marriage in the case of a minor girl was lost if it was not exercised without unreasonable delay on attaining puberty, it continued in the case of a male 'until he has ratified the marriage either expressly or impliedly as by payment of dower or by cohabitation'.[18]

The Prophet is said to have declared: 'Take you care that none contract women in marriage but their proper guardians.' Marriage is left to be settled by the guardians for two reasons: (*i*) According to Malik and Shafii, 'The end proposed in marriage is the acquisition of those benefits which it produces, such as procreation and so forth, and if the conclusion of this contract were in any respect committed to women, its end might be defeated, they being of weak reason and open to flattery and deceit.' (*ii*) Marriage can be contracted only with a woman's *kuf*, equal. This equality, according to Hanafites and Shafiites, refers to birth, profession etc., and according to Malikites, to conduct and faith. This equality is required only in respect of the husband. It is not necessary that the wife should be the equal of the husband 'since men are not degraded by cohabitation with women who are their inferiors'. Accordingly, we find that a Muslim was enjoined to marry only a Muslim (II 220-21); but while a relaxation was made in the case of a male to marry even a *kitabia* (V 7), the marriage of a Muslim woman with a non-Muslim was void. In fact, the conversion of the husband to another religion *ipso facto* annulled the marriage and the Muslim wife had to marry another Muslim.[19]

The two facts, that the *wali* is necessary for marriage and that he can give in marriage a virgin—and Islam requires that every bride should be a virgin—who is a minor according to the Hanafi school, or even a major according to the Shafii school, without her consent, when taken together present the same situation as when the father or kin of a woman used to contract her marriage. The element of consent is further minimized by the *bint aam*, marriage with the father's brother's daughter, which eliminates the element of choice and consent on the part of a woman. The point is brought out more significantly with the Hanafite legists' dictum that 'a man may give his daughter in marriage to his brother's son without asking her consent, although for his part the man may decide for himself what his wishes are with regard to marriage with his female cousin'.

We see from the foregoing discussion that Islam retains in a large measure the elements of the polygynous *baal* marriage of the pre-Islamic Arabic society. The idea of property in woman is not so explicitly expressed in Islam as it was in old Arabia; for, in a sense, Islam revolted against it. The Quran makes marriage with a stepmother unlawful. It concedes to a widow the right to a portion of property, and she thereby ceases to be property herself. And yet we see the old idea persisting in the implication of divorce, in the place of the *wali* in marriage and in the authority he exercises, and in minimizing the element of consent theoretically necessary for the marriage contract. Muhammad did nevertheless ameliorate the position of woman, although his role as a reformer in this sphere is much exaggerated in the proclamation that Islam is social democracy. It is a fact that Islam brought about a change in the position and the status of woman, but it is too much to claim that it equalized her position with man.

Islam restricted polygyny and favoured monogamy. It provided some check against divorce and enunciated rules for the support, at least for a time, of divorced women and their children. Paradise was promised to a believing woman as it was to a believing man. 'Whosoever doeth the things that are right, whether male or female, and he or she be a believer—these shall enter Paradise.' 'One day thou shalt see the believers, men and women, with their light running before them and on the right hand' and the angel shall show both men and women 'gardens beneath whose shades the rivers flow in which he shall abide for ever'. 'I will not suffer the work of him among you that worketh, whether male or female, to be lost.' The Prophet was likewise not averse to women offering their prayers in public, and declared that they could go to the mosque if permitted to do so by their husbands. This concession to pray in public seems to have been begrudged in the second century of the Hijra by Zayd ibn Ali.[20]

While Muhammad conceded equality to women in religion, he seems to have been reluctant to accord them freedom in public movement and social intercourse. The Prophet directed his wives to remain indoors and not to go around in public decked out as in the time of barbarism. Before his rise to power he commanded his believers to ask their wives to put on long veils when they went out in public. He also requested his followers to make their requests to his wives 'from behind a veil', and to enter his house only with his permission and on occasion. It is quite possible that in imposing restrictions on the social intercourse and public movement of his wives he was following the etiquette of his own tribe of the Quraysh. But this practice also had a wider implication. Not only did the believers adopt the practice of the Prophet as the ideal pattern of behaviour for women, but it came to be justified. 'Let the believer restrain his eyes from lust.' 'Say to the believing women that they refrain their looks, and observe continence, and that they display not their ornaments, except what of necessity; and that they draw their veils over their bosoms, and display not their ornaments, except to their husbands, or their fathers . . . or their sister's sons and their women.' Ameer Ali observes: 'The Prophet's counsel regarding the privacy of women served undoubtedly to stem the tide of immorality and to prevent the diffusion among his followers of the custom of disguised polyandry.' It may be conceded that the Prophet saw the propriety of proper adornment for women for decency and for guarding against insult in an age when the Arabs' love for wine and woman was known to be great. Yet one cannot help commenting that Ameer Ali has idealized veiling in Islam by exaggerating the moral looseness of the period. Macdonald writes: 'The seclusion of Muslim women runs back to the fact that Aisha once lost a necklace under what the gossips of the time thought were suspicious circumstances.'[21]

The significance of this practice of the Prophet and of the Quranic passage giving expression to it, lies in the fact that the later writers on Islam, who were influenced in their outlook by the contemporary Persian civilization, made these inhibitions more rigid with the result that the religious privileges of the women came to be challenged. Bayadawi in the thirteenth century wrote: 'Indeed the whole of the body of a free woman is to be regarded as pudic and no part of her may lawfully be seen by anyone but her husband or close kin, except in case of need, as when she is undergoing medical treatment or giving evidence.' Women were supposed to go to hell 'because of their unbelief' and the Prophet's promise of Paradise to women is explained by adducing a *hadith*, 'although men innumerable have been able to attain religious perfection—with the consequent reward of Paradise—only four women have ever done so'.

In pre-Islamic Arab society a female child was not often desired and female infanticide was occasionally practised. This may have been due to poverty; but the Quran often admonishes not to kill female children for fear of poverty. It is however quite probable that the motive actuating the Arabs in the infanticide of female children sprang more from their social ideals than from economic considerations. It was considered a great honour to conquer the wives and concubines of enemies, and it was likewise an honour to seduce a woman of another tribe. The seduction of a woman was such a disgrace to her clan that it was the duty of the woman's kin to avenge it, and vendetta followed. The Arab was also proud of his lineage. He could not conceive of giving a woman of his clan in marriage to a member of a clan lower in rank, as this would constitute loss of prestige. It was this that made woman's morals a point of honour with the Arabs and it was partly because of these social values that the Arabs desired few female children and disposed of the surplus by killing them. Muhammad condemned this practice in emphatic terms, and attempted to raise the status of woman.[22]

But the greatest contribution of Islam to the cause of woman was to invest her with property rights. In Islam *mahr* becomes the property of the woman, and woman is recognized as an heir at law. 'With regard to your children, God commandeth you to give the male the portion of two females and if there be women above two, then let them have two-thirds of what (the deceased) leaves. If there be one, then let her have one half. And your wives shall have a fourth part of what you leave if you have no issue; but if you have issue, then they shall have an eighth part of what you leave, after paying the bequests you shall bequeath and debts.' When there are more than two daughters a son gets one-third and the daughters the two-thirds. This rule for the division of property is very complicated and we need not concern ourselves with its legal implications. It was an innovation from the old Arab law and must have been resented by the people of al-Madina. When we read, however, of wealthy women like Khadija whom the Prophet married and who helped him support his early converts with her wealth, we may infer that in the city of Mecca at least women were allowed even in pre-Islamic days to hold property. The sacrosanct character of the holy city may well have aided the Prophet's attempt to confer property on women against the usage of al-Madina. At the battle of Uhud the Prophet's followers fell, leaving their wives and children destitute and their property in charge of their kin who were the Prophet's enemies. This peculiar situation must have shown the benefit of extending woman's special privilege in the city of Mecca to all the wives of the believers. Islam institutionalized the change that was already slowly taking place among the metropolitan Arabs. And Islam's contribution lay not only in defining the scope of the property a woman may own—by inheritance, by gift, and by the fruits of her own labour—but in recognizing her absolute ownership of it.[23]

Islam has improved the status of woman by restricting polygyny to four wives, by condemning female infanticide, by assigning a share of inheritance to women, by declaring *mahr* as a gift to the bride and by reorienting the Arab law of marriage and divorce in favour of woman. It does not however contemplate equality between man and woman, although Ameer Ali would have us believe that 'he (the Prophet) placed them (women) on a footing of perfect equality with men in the exercise of legal powers and functions'. Inequality between man and woman faces us at every step. 'Men have a degree above them.' 'Men stand superior to women in that God had preferred the one over the other.' 'Virtuous women are obedient and careful during their husbands' absence, because God preserveth them by committing them to the care and protection of men. But chide those for whose refractoriness you have come to fear; remove them into sleeping chambers apart, and scourge them; but if they are obedient to you then seek not occasion against them.' Muslim marriage contracts require the signatures of two witnesses, one from each party. Each should be a free Muslim of adult age and sound mind. 'If two such men are not available, two Muslim women may take the place of one man, though at least one of the witnesses is required to be a man.' When fines are inflicted, a woman pays half as much as a man. The same scale applies in matters concerning ransom for a murder. It is perhaps because of this valuation of woman that a female child is entitled to only half the share of a male child. In marriage law, while it is optional for a male to marry his cousin, it is compulsory for a female to marry her male cousin.[24]

Sir William Muir wrote: 'The position fixed by Muhammad for woman is that of an inferior creature, destined only for the service of her lord, liable to be cast off without the assignment of any reason, and without the notice of a single hour. While her husband possesses the power of divorce, absolute, unquestioned, no privilege of a corresponding nature has been reserved for the wife. She hangs on, unwilling, neglected, or superseded, the perpetual slave of her lord, if such be his will.' Dr Ludolf Krehl, who showed a decided inclination to take the most favourable view of the Prophet's life and character, had much the same to say: 'He (Muhammad), in effect, saw nothing more in woman than a ministering slave.'[25] This is in a sense doing injustice to Islam. The great mission of Muhammad was to revitalize the religion of the Arabs by preaching monotheism, belief in one Allah. The fundamental postulate of Islam is that there is no god but Allah, and Muhammad is His Messenger. The other important tenets of Islam, five pillars (*fard al-ayn*) as they are called, are daily prayers, fasts, alms-giving (*zakat*) and pilgrimage (*hajj*). These essential duties for a Muslim make Islam a broad-based religion by incorporating into its structure the elements of contemporary Arab and non-Arab religious beliefs and practices and cater to its vitality by providing meeting grounds for, and a democratic outlook to, the members of the community of faith. They are however subservient to the fundamental postulate, as a mere belief in Allah and the Prophet can save a believer even if he were to fail in the proper fulfilment of these duties. Islam being primarily a religious movement Muhammad had no specific programme of social reform. Again, he had to fight for the major part of his life odd battles with the Arabs in order to convert them to his creed. And when this great task was finished his life was coming to an end. His early sympathizers at Madina were conservative in their social practices. In order to keep them attached to him, Muhammad had to see that any change in their social system was moderate and gradual. These were the limitations to Islam as a new social system. Again, any reform movement has certain inherent limitations. New ideas cannot be integrated into any social system as *mores* easily and at a sweep, especially when they affect the social organization. The ideas must first be found compatible with the old social organization and then must be gradually assimilated without violently disturbing the old *mores*. Still more important is the fact that there must be preparedness in the social environment to receive them, and the early vicissitudes of Islam as a new religion bear out this argument. To be successful the social reform must, therefore, start with the social *milieu* of the time and proceed cautiously and in a rhythmic manner. We have tried to understand the social system of Islam in the context of the contemporary Arab society. The contribution of Islam lies in its improvement upon the old Arab conceptions and conventions.

This approach to the social legislation of Islam is of particular interest at the present time when the cry to return to the Quran is heard in the Muslim world. We are mainly concerned here with the Indian Muslim and must therefore content ourselves with the approach Sir Muhammad Iqbal and Ameer Ali have taken in respect of the reorientation of the Muslim social system. 'Despite his evolutionary philosophy, he (Iqbal) attached great importance to a static insistence on the finality of Islam—as a social system never to be superseded: and in practice, never to be even improved. . . .

> O thou that art emancipated from the old Custom
> Adorn thy feet once more with the same fine silver chain.'

Consistently, 'He never understood, and he constantly thought against those who deem that women too might share in the brave new world. . . . For women he wanted no activism, no freedom, no viceregency of God. . . . Woman should remain as she has always been in Islam, confined, acquiescent to man, and achieving nothing in herself but only through others. She should remain a means to an end. Iqbal kept his own wives in *pardah*, and untiringly he preached to the world his conception of the ideal woman:

> The chaste Fatimah is the harvest of the field of submission,
> The chaste Fatimah is a perfect model for mothers. . . .
> She who might command the spirits of heaven and hell
> Merged her own will in the will of her husband.'

Ameer Ali did not differ from Iqbal; only his way of saying it was different. 'The Teacher who, in an age when no country, no system, no community gave any right to woman, maiden or married, mother or wife, who . . . secured to the sex rights which are only unwillingly and under pressure being conceded to them by the civilized nations in the twentieth century, deserves the gratitude of humanity. If Mohammed had done nothing more, his claim to be a benefactor of mankind would have been indisputable.'[26]

Turkey is the only Muslim country where a civil code has superseded the Quran in certain fields of law. The Turkish Civil Code, on the Swiss model, was enacted in March 1926 and was put into operation six months later. According to it, polygyny is prohibited, marriage between men and women of any religion is permitted, equality of husband and wife in the matter of divorce is accepted, and divorce is admitted only for specified reasons to be substantiated in the course of a procedure specially established to that effect. The question is whether other Muslim countries will look to Turkey or to the Quran in stabilizing their social codes. The new economic system that has come to stay in the Muslim world, the new political ideology that has been slowly making its way in Muslim states, modern methods of communication, education that is spreading fast among both males and females, contact with an entirely different Western civilization, the cinema which expresses vividly and impressively the new conception of the relations between man and woman—all these have helped to introduce a social system in which sex ethics accord a very favourable position to women. The education and economic independence which Muslim females have succeeded in attaining in some measure have stirred them to press for a reconsideration and restatement of social legislation in their favour, and the Muslim youth has conceded the validity of this claim. The educated *élite* of the Muslim world realizes that Islam is in need of adaptation and reorientation to its new environment, but their belief in Islam and the preachings of eminent modernists pull them back to the Quran. The younger generation is thus passing through a period of tension and unrest, and it remains to be seen how this tension will be relieved and the conflict resolved.

10

THE HINDU JOINT-FAMILY

A QUESTION THAT IS OFTEN POSED AND HAS NOT BEEN SATISFACTORILY answered is the extent to which the Hindu family can be regarded as patriarchal. Zimmer and a few other indologists have postulated—on the basis of such references to parental power in Vedic literature as robbing Ṛjaśravas of his eyes, sale of Śunaḥśepa, offering of Naciketas to Yama—the rigorous *patria potestas* of the father amongst the Vedic Aryans. These few semi-mythical cases have not however persuaded the majority of indologists, both western and oriental, to accept the notion that the head of the Vedic Aryan family possessed such wide power and authority as were enjoyed by the Roman father. The relations between the head of the Vedic Aryan family and his descendants were marked by filial love and not by fear. Punishment by the father was not unknown, but he was also known to be kind and easily accessible. Though the Sūtra-literature alludes to the father's power to give away, to sell or to abandon his sons and though it takes cognizance of sons who are purchased (*krīta*), sons who are abandoned (*apaviddha*), etc., it also deprecates the maltreatment of parents by their children as an *upapātaka*, minor sin, and holds out the threat of fine by the king. The practice of selling or pledging a child without incurring punishment is ascribed by Kauṭilya to the Mlecchas. The authority of the head of the family, his attitude and behaviour towards his dependants and the latter's responses to them are not so clear and categorical as to indicate such authority for the head of the family as would allow us to call him a patriarch.[1]

Although the nature of this authority is vague, the nature of his control over the family property can be precisely defined. If the Vedic family is to be proved patriarchal, the head of the family must be shown as having absolute control over the family property and the partition of property to be unknown. Absolute control implies the disposition of property in any way the patriarch chooses. He may give the property away, sell it, alienate it, or transfer it by testamentary disposition in any way he thinks proper. Vedic literature is primarily concerned with the religious aspect of life and only occasionally and casually refers to social relationships, legal rights and obligations and economic privileges. It is natural therefore that one does not find in this literature details of the mode of disposition of property by the head of the family, and consequently the whole question of the nature of control remains partially unanswered. We only know from later literature that the father had the authority to give away in *viśvajit* sacrifice all the property over which he had control. This disposition of property was for a spiritual purpose, and such a disposition was allowed even when the son was conceded a right to demand partition in the family property against the will of the father.

Information concerning the disposition of property being so scanty, the nature of control has to be defined from another point of view, namely whether the family property was partitioned in the lifetime of the father and how far the father controlled the time and mode of partition. Macdonell and Keith observe: 'The (Vedic) passages all negative the idea that the property of the family was legally family property: it is clear that it was the property of the head of the house, usually the father, and that the other members of the family only had moral claims upon it which the father could ignore, though he might be coerced by his sons if they were physically strong.' In Vedic literature we find two prominent instances where the father seems to have set aside the claims of his sons to his property. In one case, Viśvāmitra adopted an outsider to be his eldest son and succeed him, ignoring the fact that he thereby put his hundred sons at a disadvantage. Fifty of his sons protested against this action of their father, and they were, for that reason, cursed by Viśvāmitra. Apart from the fact that

Viśvāmitra stands as a unique personality in Vedic literature, it is not clearly indicated in the episode whether the sons' right in the family property was adversely affected by the whim of their father. And the fact that some of the sons protested against it instead of meekly submitting to the father's vagaries is significant. The sons could not have thought of protesting if Viśvāmitra, as the head of the family, was competent, according to the prevailing norms, to transfer his property to an outsider irrespective of his sons' interests. Another incident recorded in Vedic literature is in the life of Manu who is said to have excluded his youngest son, Nābhānediṣṭha, while dividing his property among his sons. According to another version, however, it was not the father, Manu, but the brothers who did not give a share to Nābhānediṣṭha, who was absent at the time of the division. These two versions present entirely different situations and hence one has to determine which version should be accepted as true. The interesting fact, however, is that in both versions Manu compensates his youngest son by giving him divine lore which brings him cattle and property from the Āṅgiras. It can be safely concluded from these two instances that the father could not easily ignore, as is believed by Macdonell and Keith, the claims of his descendants in the family property.

But the more pertinent question is the impartibility of the family property, and one fails to find a clear Vedic tradition in respect of it. There are indications that the eldest son had a privileged position in that spiritual heritage was bestowed on him. A person could not set up his household nor could he be consecrated for *soma* sacrifice before his elder brother. The householder entered his new home with his eldest son, and leadership of the eldest son was also suggested by the legends of the gods. In one of the Vedic passages it is said that 'Prajāpati established his eldest son, Indra, by means of full moon rite. Therefore people establish their eldest son with wealth.' The Vedic passage being so ambiguous, it is not safe to formulate any far-reaching conclusion on the strength of it alone. Does it suggest that the eldest son succeeds, on the death of the father, as the controller of the family property? The Sūtra-writers have used this passage to justify the special portion they advocate for the eldest son in the family property. We lear from another source that a man, before giving away the whol property as fees in the *viśvajit* sacrifice, should set apart th share of his eldest son. In the light of the interpretations o the Sūtra-writers and this tradition of setting apart the shar of the eldest, the Vedic passage may be construed as merel referring to a preferential treatment of the eldest son in respec of economic privileges.

It can as well be said that the father divided the propert among his sons probably, though not always, when he gre old. Reference to the equal division of property among th gods and the Asuras, sons of Prajāpati, in the Brāhmaṇas, an the question of special privileges of the eldest, should confirm any inference about the possibility of partition of property i Vedic times.

Vedic literature being more concerned with religious life, i is not possible to lay down dogmatically the nature of th property law. But from what has been gathered from the dat available, it seems fair to conclude that there is no clear indic tion of the patriarchal family as being the only form of famil organization.[2]

The post-Vedic literature (Dharmasūtras and Manusaṁhit provides us with ample material about the family organizatio of the time and the modifications it was undergoing. But th facts are so presented that they appear contradictory, and on has to sift them in order to get the true picture.

Manu (IX 104-111) gives the law of inheritance and partitio in the following words: ‘After the death of the father and the mother, the brothers, having assembled, may divide amon themselves in equal shares, the estate, for they have no pow (over it) while the parents live. Or. the eldest alone may tak the whole paternal estate and the others shall live under hi just as (they lived) under their father. Immediately on t birth of the first son, a man is called the father of a son an is freed from the debt to the *manes*; therefore that son (alon on whom he throws his debt and through whom he obtai immortality is begotten for (the fulfilment of) the law; all t rest they consider the offspring of desire. As a father (support his sons, so let the eldest support the younger brothers; and et the brothers in accordance with the law behave towards heir eldest brother as sons (behave towards their father) The eldest son makes the family prosperous or may bring it to uin: the eldest (is considered) among men most worthy of honour and is not treated with disrespect by the virtuous. If he eldest brother behaves as an eldest brother (ought to do) he (must be treated) like a parent; but if he behaves in a manner unworthy of an eldest brother he should yet be honoured like a kinsman. Either let them thus live together or (get) apart if each desire (to gain) spiritual merit; for by separate living their merit increases, and hence separation is meritorious.' The Dharmasūtra-writers, who preceded Manu, were clearly against the impartible nature of property and the atriarchal constitution of family. Āpastamba wrote: 'Some eclare that the eldest son alone inherits. That is forbidden y the Śāstras for it is declared in the Veda without (enjoining) difference: "Manu divided his wealth amongst his sons." Now the Veda declares also in conformity with (the rule in avour of the eldest son) alone: "They distinguish the eldest y the heritage." Those who are acquainted with the inter- retation of law declare a statement of facts not to be a rule, for instance, "therefore amongst cattle, goats and sheep walk gether", or, "therefore the face of a learned Brahmin is, as were, resplendent". . . . Therefore all sons who are virtuous herit.' And hence he directs that the father should divide s wealth during his lifetime equally amongst his sons. autama shows his familiarity with the view that the whole tate must go to the first-born, who supports the other brothers the father. He immediately adds, however: 'But in parti- on there is an increase of spiritual merit,' and then discusses e additional shares of the sons. He, like Āpastamba, stands r partition in the father's lifetime, but is not so insistent on it is Āpastamba. 'After the father's death let the sons divide s estate, or during his lifetime, when the mother is past child- aring, if he desires it.'

Sons who enforce partition against the wish of the father ould not be invited to the *śrāddha* dinner. Baudhāyana, like Āpastamba, relies on the Vedic tradition of Manu and pleads for equal shares to all the sons without any distinction.

He also refers to the Vedic passage in which the eldest son is said to be distinguished by wealth and interprets it to suggest that the most excellent chattel should be assigned to the eldest as his portion or one tenth as his extra share. Vasiṣṭha only speaks of an additional share for the eldest.[3]

It is evident that when the Sūtras were written the tradition of impartibility of family property was fairly well known. The Sūtra-writers did not dispute the tradition, but attempted to simultaneously formulate a different rule of partition for which they were able to give a Vedic authority and which they thought to be more desirable. Their justification for the partition was strengthened on religious grounds as it tended to greater acquisition of spiritual merit. And it is evident that even when they sought to justify the partition of the family property, all, except Āpastamba, recognized the father's control and regarded partition more as a matter of grace than of right. Naturally, forcible partition against the father's wish was not applauded but was said to be *contra bonos mores.*

It is quite possible that the lead for partition given by the Sūtra-writers soon developed into a social convention, with the result that Manu had to argue in favour of the patriarchal tradition. For performing the funeral rites which were supposed to save the deceased from hell, a son of the family was desired. The son, by continuing the family and thereby continuing the family *śrāddha*, became himself indispensable; hence, procreation was regarded as the repayment of a debt to the *manes* of the family. With the birth of the first son this onerous duty was duly performed and a man was said to be relieved of his debt. As it was the first son, Manu argued, through whom could be achieved the fulfilment of *dharma*, inheritance of the family property by him alone was not only legitimate but righteous. Primogeniture was thus religiously ordained. The eldest son as a patriarch was supposed to treat his dependants well. But even if he proved a little autocratic, the other brothers, while grudging him his authority, could not deprive him of his position which he inherited in his right as the eldest son. While Manu has thus very ably made out a case for the patriarchal family, he could not remain blind to the new trend in favour of partition.

Although the father was recommended to divide the property in his lifetime, his absolute control over the property was constantly postulated. The nature of this control can be more precisely defined by answering the questions whether the father had the authority to divide the property in any way he liked, and whether such authority, if at all it existed, was so complete as to allow him to exclude any of his sons totally from any share. With respect to unequal shares in the patrimony the Sūtra-writers and even Manu specially lay down the share of the eldest and that of the youngest. It is clear from the way the question was discussed and the special portions that were recommended for the sons in the Dharmasūtras and Manusaṁhitā that the allotments were not precisely fixed. But the important fact is that the father's authority over the property was circumscribed by these special injunctions relating to unequal allotments. This is confirmed by the fact that the father's authority to exclude any of his sons from receiving a share was likewise limited by express rules of exclusion. Idiots, madmen, outcastes, eunuchs, the incurably diseased, those who lived unrighteously and habitually committed forbidden acts and those who had renounced the order of the householder were forbidden, according to these writers, to receive their shares. These persons were incapable of managing property in their charge and were suspected of squandering it away. Those who were likely to impair the rights of their descendants in the property were excluded from receiving such property in their charge. Those who failed to conform to the norms which the community thought desirable for an organized life and the stability of social relationships forfeited those rights to which they were otherwise entitled. But the significant fact is that they were not excluded because their inherent right was challenged or denied; for, although these persons did not receive their due shares, their sons were entitled to claim them. In a sense, therefore, it amounted to a postponement of payment. It follows, then, that nobody could be deprived of his share in the property, and whenever such exclusion was thought desirable the authority of the father in this respect was rigidly regulated by the injunctions of the legislators. In the Dharmasūtras and the Manusaṁhitā the father's control over the family property, though not disputed, is circumscribed in its expression by categorical limitations imposed on the father's discretion in its distribution. But these limitations could not have become norms with which the father always and necessarily complied because, soon after Manu, Yājñavalkya enjoins: 'When the father makes a partition at his pleasure, let him separate sons by giving the eldest the best portion or by giving equal shares to all. . . . (Distribution) made by the father among sons separated with greater or less share is (pronounced to be) legitimate (or righteous).'

Nārada enjoins likewise: 'The father being dead, the sons shall divide the estate as they should . . . or let a father distribute his property among his sons himself, when he is stricken in years, either giving a large share to the eldest son or (distributing the property in any other way) following his own inclination. A distribution of property made by the father, amongst his sons, whether equally or disparately, is lawful; for the father is the lord of all. A son hostile to his father, outcaste, impotent, guilty of a minor offence, afflicted with a chronic or acute disease, idiot, blind or lame, shall not take a share (of the inheritance).' He also refers to the old patriarchal tradition: 'Or the senior brother shall maintain all, like the father, if they wish it, or even the youngest brother, if able; the well-being of a family depends on the ability of its head.'[4] Impartibility of property is here given as an option. Nārada, however, seems to have greater leanings towards it, as can be seen from a long discussion he has elsewhere.[5] Wives, sons, slaves and other attendants are dependants. The head of the family on whom the property has descended by right of inheritance is independent with regard to it. A man after the age of sixteen is independent if his parents are dead. While they are alive, he can never acquire independence. The father, the mother and the eldest son are independent and they have authority in regard to coercion, relinquishment and sale (of property). If a son has transacted any business without authorization from his father, it is invalid. A slave and a son are equal in this respect. That is declared a valid transaction which is done by the senior or the head of the family only. A transaction by one who does not enjoy independence is not valid. And elsewhere Nārada says that independence belongs to the eldest son (only).

That the father's control over the property was generally favoured in the Smṛti period is borne out by the fact that it is recorded in a categorical manner and without any reference to partition among the sons by other Smṛti-writers too. Devala writes: 'On the father's death the sons shall divide among themselves the father's property; they have no right over the property so long as the father is alive and is free from faults.' Śaṅkha and Likhita say: 'During the father's lifetime the sons shall not divide the property; the sons have no right even over that which may have been acquired subsequently; because as regards property as well as religious rites, the sons are dependent upon the father so long as he is alive and is faultless.' Even Kauṭilya concedes this absolute control of the father: 'When the parents are alive, sons have no rights over the property.' Only the last Smṛti-writer, Kātyāyana, of the seventh century A.D., lays down: 'If a father, during his life, divides the property he shall neither prefer any one of his sons nor exclude any one of them from a share without a sufficient cause.'[6]

It is evident from the foregoing that the tradition of the patriarchal family persisted side by side with the trend towards individual families. This situation is as old as the Gṛhyasūtras. It is said in Sāṁkhāyana-gṛhyasūtra: 'Some declare that the domestic fire should be kindled at the time of inheritance, or that after the death of the householder the eldest son himself should kindle it.' Pāraskara writes: 'The setting up of the *avasathya* (or sacred domestic) fire is performed at the time of wedding or at the time of the division of inheritance according to some teachers.'[7] This reference in the Gṛhyasūtras to the establishment of a new house at the time of marriage or at the time of the division of property can only mean that the patriarchal family must have by then been a thing of the past. From patriarchal family to individual family is a long stride which could not have been taken within a few years. The very thought of the individual family presupposes the decaying stage of the patriarchal family. The Vedic evidence we have examined bears this out. The old patriarchal family had transformed itself into a joint-family whose head managed the property in the interests of the members. There was a growing tendency towards the disintegration of the joint-family into individual families, and the old patriarchal tradition was utilized to fortify the joint-family. The corpus of the joint-family was further strengthened by other devices because tradition alone cannot keep up for long a disintegrating structure, a subject to which reference may now be made.

With the system of impartible property the earnings of all the members of the family were pooled under the charge of the patriarch. Manu observed: 'A wife, a son and a slave, these three are declared to have no property; the wealth which they earn is (acquired) for him to whom they belong.' The fact that the Dharmasūtra-writers did not refer to this inability of the wife and the son to hold property and that among the Smṛti-writers coming after Manu only Nārada and Śukra refer to it, clearly indicates that the position had begun to be disputed. A more positive ground for this assumption is the fact that even Manu allows a son to retain to himself a certain portion of his acquisition. 'Property (acquired) by learning belongs solely to him to whom (it was given); likewise the gift of a friend, a present received on marriage or with the honeymixture. . . . What one may acquire by his labour without using the patrimony, being the acquisition (made solely) by his own efforts he shall not share unless he so desires.' Before Manu, Gautama had laid down: 'What a learned has acquired by his own efforts he may withhold from his unlearned (co-parceners).' That this was a new development is borne out by Vasiṣṭha who enjoined: 'Those who may have specially worked to acquire property shall receive two shares.' The early law thus starts from assigning an additional share to the acquirer and develops into creating a different category of property marked out from the family property. Manu enlarged the scope of this property and the acquirer's interest in it, and after Manu the scope of individual property was widened still further. According to Vyāsa, what was acquired by learning or by bravery or as a present in marriage, what was given to a man by his grandfather or father as a loving gift, what was given by the mother, and the property acquired by his own efforts without drawing upon the paternal property, need not be shared with the co-parceners at the time of partition. Nārada added to this list property inherited from one's wife, and Yājñavalkya, the recovery of ancestral property previously lost. That Yājñavalkya enlarged the scope of individual property is borne out by the view of another Smṛti-writer, Ṛṣyaśṛṅga: 'If one of the co-parceners recovers the landed property previously lost, the other co-parceners shall receive their share of it, after having given the fourth part of it to the recoverer.' Kātyāyana further enlarged its scope by defining the gains of learning as 'what one obtains from a pupil or from officiating at sacrifices or by answering doubtful questions or by putting questions or by expounding his own knowledge or by teaching'.

While, on the one hand, the scope of individual property was thus gradually widened, precaution was taken to see that it did not engulf a large amount of the family property. It was laid down by both Nārada and Kātyāyana that the gains of learning could be retained by a person to himself provided he had acquired learning without the use of the family property or provided he had made those gains without employing any part of the paternal property for the purpose. 'If someone living upon food given by a stranger has acquired learning and by means of learning thus acquired he acquires some property, that property is what is called the gain of learning.' 'Acquisitions of learning or by bravery of those who acquired learning in the family itself, either from their fathers or brothers, shall be divided,' says Bṛhaspati. 'The brother who supports the family of the brother while the latter is acquiring learning should, even though he be unlearned, obtain some share of the property acquired by that learned brother.'[8]

It was not only the son of the family whose aspirations it was attempted to satisfy by the creation of a category of individual property distinct from the family property; the wife was likewise allowed to own some portion of property under the category of woman's property. This, according to Manu, included what (was given) before the (nuptial) fire, what (was given) on the bridal procession, what was given in token of love, what was received from her brother, mother or father, a gift subsequent and what was given (to her) by her affectionate husband. When the mother died all the uterine brothers and the uterine sisters equally divided the property of the mother. 'Even to the daughters of these something should be given as is proper, out of the estate of the mother's mother, on the score of affection.' Before Manu, Gautama had stated that 'a woman's separate property (goes) to her unmarried daughters and (on failure of such) to poor (married) daughters'. And Vasiṣṭha also allowed it to be inherited by the daughters. But neither of them defined what this property consisted of. Does this mean that the conception of woman's property was vague in the early days of the Dharmasūtras and only took shape by the time the Manusaṁhitā was reduced to its present form?

The later writers, Viṣṇu and Yājñavalkya, include in the woman's property what she receives on supersession. The early writers do not define the nature of control the woman has over her property. Kauṭilya, however, tells us that the woman should be chaste and live under the protection of her husband's near relatives; she was otherwise deprived of her *strīdhana*. If Kauṭilya is any index to the early law it can be said that even when means were devised whereby some portion of property passed to the wife (who was not entitled to inherit the property of her husband), it was still thought necessary to keep a rigid control over the enjoyment of that property by her. Rather later we find that 'neither the husband, nor the son, nor the father, nor the brothers have the right to take away or to spend a woman's property, *strīdhana*; if any one of them takes it away forcibly, he should be made to make good the amount with interest and should also pay a fine; if any one makes use of it with her permission and in a manner agreeable to her, he should repay it, if he has the wealth to do it. Whatever the woman may have lovingly given to any one of the above relations during his sickness or when he was in trouble or harassed by creditors, he may voluntarily repay.' 'Over the *saudāyika* the ownership of the woman is absolute and she is free to sell it or give it away even when it consists of immovable property.' Kātyāyana went further in that, while according to Nārada, 'What is given to her through love by her husband shall be enjoyed by her as she chooses, even after his death, with the exception of immovable property', he, Kātyāyana, confers absolute control even over immovable property. But that is not all. He defines *saudāyika* as what is obtained by a married woman or her husband at her father's house either from her parents or her brothers. Does this mean that her parents could part with some portion of immovable property to a female child? By the time of Kātyāyana, a daughter was recognized as heir to the property of her father in the absence of sons and of widow. This only means that even when there was no chance for a daughter to inherit her father's property, she was given a portion of that property at the time of marriage and that portion could include even immovable property. *Saudāyika,* according to other writers, included much more than the presents from her paternal home. According to Vṛddha Vyāsa, 'Whatever the girl obtains at or after marriage, from her father's or brother's house, is called *saudāyika.*' According to Śukra, 'The *saudāyika* property is known to be that which comes to a married woman through gifts and dowries from her parents' or husband's families, or through presents from parents and relatives.' If, following Kātyāyana, woman's absolute control over the *saudāyika,* as defined by Śukra, is to be postulated, woman's right to property is evidently significant.[9]

This lengthy discussion is necessary in order to understand the true nature of family organization in the first few centuries of the Christian era. On the one hand we have reminiscences of the patriarchal family in the writings of some legislators and in the law of partition ; on the other we find the categories of individual property and of woman's property emerging and gradually expanding in scope and interest. We also see the former fading and the latter coming into prominence with the flux of time. This development is interesting, and in order to understand its true significance we have to look into the changes in other social relationships.

The history of the Hindu law of property, from the time of Manusaṁhitā to that of Kātyāyana and Śukra, from the beginning of the Christian era to the sixth or seventh century, shows the development of individual property and woman's property and an attempt on the part of the Smṛti-writers to keep intact the corpus of the joint-family. From the time of Gautama onwards the institution of the individual family has been held to contribute to the increase of spiritual merit. But, in spite of this, the Hindu family continued to be joint and did not disintegrate into individual families. This result was achieved by holding out to the members of the joint-family some of those prospects which they looked for in the individual family. Hence even when concessions in property rights were made by the Smṛti-writers, they were cautious not to undermine the structure of the joint-family. These attempts were, on the other hand, calculated to nourish the sentiments in favour of the joint-family. One naturally asks why such concessions were made.

In order to understand the change in the concept of family it is necessary that we should examine the roles of the different relatives in the different spheres of social life. Let us begin with the funeral rites. There are three aspects from which the roles of different relatives in these rites may be properly understood. On the occasion of cremation certain relatives were required to participate in the rite of offering libations of water to the dead man. Then other relatives were rendered impure for a particular number of days varying from one to ten. During this period Vedic study was stopped, *homa* was not performed, alms were not given. Then there were rites to be performed in honour of the dead on and after the tenth day. Pāraskara Gṛhyasūtra reads: 'After burning him all relations to the seventh or the tenth degree descend into water: if dwelling in the same village, (all) as far as they can trace their relationship. Coming out of the water they return to the village. Through a period of three nights they should remain chaste, sleep on the ground, do no work and charge nobody (to do it for them). The impurity caused by death lasts through three nights, and to ten according to some. The same rule is observed on the death of a teacher, the mother's father, the mother or unmarried female. For those who are married, others should do it. Water libation is optional for an officiating priest, father-in-law, friend, (distant) relations, mother's brother, sister's son and unmarried females.' According to this passage, water libations are compulsorily offered to the mother's father, the mother and unmarried females besides agnates within ten generations or even beyond. They are, however, optional in the case of the mother's brother, the sister's son, married females and the father-in-law. The offering of libations to a married daughter suggests that the daughter on her marriage was not supposed to have completely severed her connexion with her parents' family. In addition to married daughters some other relatives also are entitled to these offerings. These are the mother's brother, the sister's son and the father-in-law. While females of the family and certain relatives through females are entitled to libations of water at the time of cremation, the mother's father enjoys a distinct position in that impurity for as much as three days is observed on his death. Āśvalāyana enjoins that Vedic study and alms-giving may be interrupted for ten days on the death of *sapiṇḍas* and the teacher ; for three days on that of teachers other than the *guru*, relatives who are not *sapiṇḍas* and unmarried females ; for one day on that of married females, children dead before teething, a fellow student and a *śrotriya* of the same village. Āśvalāyana makes a distinction between an unmarried daughter and a male member of the family by prescribing a shorter period of impurity on the death of the unmarried daughter, a distinction not known to Pāraskara. Āśvalāyana also distinguishes *sapiṇḍas* from *asapiṇḍas*. Whether the *asapiṇḍas* represented agnatic relatives beyond certain generations or non-agnatic relatives in general is not clear. In the Dharmasūtras, impurity for ten days is enjoined for *sapiṇḍa* relatives and for two days and an intervening night for *asapiṇḍa* relatives, agnates beyond five or seven generations, *yonisaṁbandhas*, cognates and affines. In the Manusaṁhitā this shorter period is prescribed with respect to the mother's brother and *bāndhavas*. Impurity for three days was observed in the case of agnates beyond the seventh generation. In view of the fact that the Dharmasūtra-writers have clearly defined the category of *asapiṇḍa* relatives and distinguished it from the cognates, *yonisaṁbandhas*, Āśvalāyana's rule may be taken to apply to the agnates who are not *sapiṇḍas*. Another writer of the Gṛhyasūtras also prescribes the interruption of Vedic study on the death of a teacher, a fellow-student or the members of the family whose head he is. Pāraskara thus seems to be an exception among the Gṛhya-writers when he thinks of the mother's father as a near relative.

In the Dharmasūtras and the Manusaṁhitā we do not find the distinction drawn by Pāraskara between the mother's father and the mother's brother. In the Yājñavalkya-smṛti, which is not much later than the Manusaṁhitā, water libations are enjoined more or less on the lines of Pāraskara, and thereby the distinction between the mother's brother and the mother's father in point of closeness of relationship is vindicated.[10]

That this distinction is significant is borne out by the fact that in other spheres of social life also the relations between an individual and his mother's brother are not the same as those between him and his mother's father. In the Dharmasūtras honey mixture is offered and salutation is enjoined in respect of both the mother's brother and the father's brother. In the epics, the mother's brother is the nearest kinsman to whom one looks for help. Rāvaṇa sought the help of Mārīca in abducting Sītā. Duryodhana always relied on Śakuni for his intrigues. In Buddhist literature, 'Mother's brother was an endearing term of address calculated to soften the heart of the person who was thus addressed.' The pattern of affection and of co-operation which is so vividly pictured in Pali literature is not so vividly drawn in Brahmanic literature, probably because in Brahmanic literature there were very few occasions to refer to this relationship. Yet the few examples that we have in Vedic and epic literature show close ties between these two relatives. Viśvarūpa, a sister's son of the Asuras, promised openly a share to the gods and secretly to the Asuras. And a comment is added that men promise openly a share to everyone; if they promise anyone secretly, then his share is indeed guaranteed. Similarly, Trisuras, a sister's son of the Asuras, became the domestic priest of the gods because of his desire to render service to them (the Asuras). When the Pāṇḍavas left for the forest Kṛṣṇa took his sister's sons to his home, as did the brother of Draupadī. When Nala had to desert his kingdom he sent his children to their mother's brother's house. And many more examples can be found in both the epics. The sister's son is shown not merely to be favourably inclined to his mother's brother but to be a positive helper.

Kauṭilya very pointedly pictures the deep affectionate relations between a man and his sister's son by comparing them with those existing between the father and son or between the husband and wife. That he was not merely imaginative or drawing upon a non-Brahmanic pattern is amply borne out by the amicable relationships between Uccaiśrava Kaupayeya and Keśī Dārbhya in the Upaniṣads and Kṛpa and Aśvatthāman in the Mahābhārata. And this pattern is quite in keeping with the affectionate sentiments between brother and sister which are testified to not only by express texts and examples but by the surprise that is felt in one of the Brāhmaṇa passages when the sister appears to be thrown into the background by the wife though born of a different womb. The Brahmanic pattern can be safely assumed to be that of affection, esteem, favourable leanings and co-operation in straitened circumstances.[11]

In the Sūtras, Manusaṁhitā and epics, the daughter's son figures as a very near and important relative not only in social relationships but even in matters connected with religious rites. It is said in the Manusaṁhitā: 'Let him eagerly entertain at the funeral sacrifice a daughter's son, though he be a student.' According to Manu as well as Vasiṣṭha, a daughter's son, sesamum grains and either a Nepal blanket or the mid-day, are three means of sanctifying a funeral sacrifice. The presence of the daughter's son is essential at any funeral sacrifice, and his place there is assured in other ways also. Brahmins who are invited to partake of meals at a *śrāddha* generally have to be those who are not related through either *gotra* or females. It is said in the Manusaṁhitā: 'Let him take pains to feed at a *śrāddha* an adherent of the Ṛgveda who has studied one entire recension or a follower of the Yajurveda who has finished one *śākhā* or a singer of Sāmaveda. This is the main rule; yet as an alternative rule one may also entertain on such occasions the mother's father, the mother's brother, a sister's son, the father-in-law, the teacher, the daughter's son, a son-in-law, a *bandhu*, an officiating priest or a man for whom one offers sacrifice.' It is further said that an unlearned friend is to be preferred to a learned enemy, for the sacrificial food eaten by a foe bears no reward after death. Evidently, then, the relatives who were deemed worthy of being fed at a *śrāddha* in the absence of a learned Brahmin must have been regarded as friendly persons. Such well-disposed relatives include the mother's father, daughter's son, the mother's brother and sister's son.

In the Mahābhārata, King Yayāti, when he fell from heaven, is said to have gained it again through the merits of his daughter's sons. It is because of this notion of a daughter's son contributing to one's happiness in the after-life that Gāndhārī, even when she had a hundred (Kaurava) sons, longed for a daughter. And the poor Brahmin whom Bhīma undertook to rescue from the demon Baka could not think of his daughter being offered in his place as a prey to the demon. He would not, as he said, thus think of losing the world that was secured to man by his daughter's son.[12]

The daughter's son did not generally perform the *śrāddha* rite for his maternal ancestors. There was, however, one situation in which he was called upon to perform these rites. A man who had no sons gave his daughter in marriage with the stipulation that a son born of her would perform the funeral rites of his mother's father. It is clearly seen from the Manusaṁhitā that by the time it was written the stipulation was not deemed necessary for such transference of a son from his natural family to that of his mother. In other words, the son of a brotherless daughter was known to perform rites for his mother's father as a matter of duty. Such a daughter was distinguished from ordinary daughters by being called *putrikā*, i.e. one who was made a son. And one of the Sūtra-writers lists such a daughter as one of the secondary sons, and her status as a son is recognized in the *śrāddha* ritual. One of the procedures of offering *piṇḍas* enjoined that the daughter's son offered the first *piṇḍa* to his mother, the second to her father and the third to her grandfather. According to another procedure, the first *piṇḍa* was offered to his mother's father but with the formula: 'This *piṇḍa* to him who is father to her and my father's father.' Baudhāyana gives both procedures, Manu the latter. The Vedic Aryans had scant respect for adoption. Consequently. in the absence of a son to continue the family line and family worship it was natural to look to one's daughter for the spiritual and social benefits derived from having a son, and she became *putrikā*.[13]

We saw above while dealing with the funeral rites that the daughter, on her marriage, was not supposed to have completely severed herself from the parental home. We have reason to believe that a daughter of the family had a privileged position in her natal home. Gautama exhorted that a householder, before he dined, should feed his guests, young lads of the family, diseased persons, pregnant women, daughters of the family, old people and persons of low caste. Manu recommended that newly married daughters and daughters-in-law, diseased and pregnant women should be fed before the guests. That the daughter is called *svavāsinī*, a 'dweller with her own people', is significant in stressing her connexion with the natal home which she leaves on marriage.[14] With this position of the daughter the link between a man and his daughter's son and that between a man and his sister's son are not only stabilized but become more compact and enduring.

Another development at this period in Indian history is equally significant. We find in one of the Upaniṣads the mother being looked upon as a god as were the father and the teacher. According to the Dharmasūtras, names of the mother's mother, her mother and her grandmother were recited in *tarpaṇa*, libation. In a passage in the Manusaṁhitā the mother is said to inherit the property in the first instance, though in the Smṛtis the mother is recognized as an heir either after the father or along with him, in the absence of a wife and daughter. We thus find a number of situations in which the mother's prominent role in a pre-eminently agnatic Brahmanic society needs to be explained.

It should now be evident why the mother's father is distinguished from the mother's brother in point of relationship. The tie between a man and his mother's relatives proceeds from the important position of the daughter in the family. Consequently, the relations between a man and his mother's father are more personal than those with his mother's brother. They are further strengthened by the religious rites and consequent spiritual benefits.

The Dharmasūtras and the Manusaṁhitā delineate social relationships which clearly show that in spite of the patriarchal tradition and joint corpus of the Hindu family, the mother, the mother's brother and the mother's father stand as near relatives in respect of both feelings and functions. It may be added that among the females who share the dignity of a teacher's wife, Manu enlists the mother's sister and the mother's brother's wife. Likewise, among the persons worthy of salutation he places the mother's brother and relatives through the mother along with the father's brother and female relatives through the father. These persons were looked upon as so near a kin that a mother's brother's daughter, mother's sister's daughter and father's sister's daughter were considered as near as a sister, and marriage with them, allowed so far, came to be prohibited. With this new rule of exogamy, kinship within three generations with the family of the mother is stressed and the bilateral family gains in prominence in the predominantly agnatic family constitution of the Vedic Aryans. Before we proceed to testify further that our reading of the social process is correct or to examine the repercussion of this development on the joint-family of the Hindus, we should like to stress the significance of this development.

Those who are concerned with theories of survivals and those who are anxious to understand and to interpret the social history of India at this period as a result of contact with the matrilineal social organization of the Dravidians, would do well to understand this outline of Hindu social history. Advocates of the survivals of original matriarchy or those of the impact of Dravidian culture should expect to find, if their assumptions are correct, a binding tie between the mother's brother and the sister's son. But the importance that is given to the mother's father in the picture of Hindu life we now have before us, is so great that no sociologist can ignore to record it. The impact theory should therefore be put forward very cautiously.

Yāskācārya in the seventh century B.C. began a discussion on whether the daughter is entitled to a share in the patrimony. He recorded an opinion according to which daughters are entitled to a share in the patrimony along with their brothers. The exponents of this view supported their position by a verse: 'Children of both the sexes without distinction take the heritage according to law as Manu, the son of Brahmā, declared this in the beginning of creation.' He also gave the opposite view, the protagonists of which rely on the Rigvedic passage (III 31) and two other passages, one of which reads: 'It is declared therefore that the male is entitled to the heritage while the female is not.' Neither of the verses on which the exponents of the two opposite views rely are traced as authentic Vedic passages. The way Yāskācārya has discussed this question clearly shows that the daughter's right to patrimony was a disputed question in his day, and his own view that only a brotherless daughter could inherit her father's wealth may be taken to indicate that the prevailing opinion of the time was against the daughter's inheritance of the patrimony. The Dharmasūtra-writers ignored the claim of the daughter in her father's property. Only Āpastamba conceded her the right to inherit, but her right to inheritance is said to arise only when there are neither *sapiṇḍas*, teacher or pupils to inherit; the daughter's possibility of getting the patrimony therefore becomes rare. Her recognition as an heir by Āpastamba has therefore a theoretical interest devoid of any practical significance. Manu discusses the question at great length, but he, like Yāskācārya, would allow the daughter to inherit only when she is a *putrikā*, brotherless girl. 'A person who has no child appoints his daughter so that her son may perform his funeral rites. A son is even (as) oneself, a daughter is equal to a son. While the daughter who is one's own self lives, how can another have his wealth? The separate property of the mother is the share of the unmarried daughter alone; the daughter's son shall take the whole estate of a person dying childless. In this world, there is no difference, properly saying, between a son's son and a daughter's son because their father and mother both spring from his body. But if a son is born after the appointment of a daughter, the division must be equal for there is no right of primogeniture for a woman. If perchance the appointed daughter dies without a son, the husband of the appointed daughter takes the estate without hesitation.' That the daughter had, according to Manu, no share in the patrimony is confirmed by another passage from Manu, where, while dividing the paternal estate, brothers are asked, on the pain of excommunication, to give several portions out of their shares to their unmarried sisters. The negation of the daughter's right in the family property is quite consistent with the family organization of the Vedic Aryans.

According to our reading of the social process the daughter and the daughter's son are recognized as near relatives in the Sūtras, and in the Manusaṁhitā kinship with these relatives is amply stressed. As we proceed in time, property rights begin to be conceded to the daughter and more informal obligations are *pari passu* imposed on a daughter's son. Yājñavalkya is the first to categorically recognize the daughter as an heir to property immediately after the lineal descendants and wife and before the collaterals, including one's father. Likewise, he is the first to expand the obligations of *piṇḍa* offerings. In the Vedic period a person was duty bound to satisfy his three paternal ascendants with *piṇḍa* offerings. It may be said to be the right of the three ascendants to receive the *piṇḍas* from him. Male members of the family within four generations are hence called *sapiṇḍas* by Manu. Yājñavalkya enjoins that when the *piṇḍas* are offered to the three paternal ascendants, three maternal ascendants should be included among the recipients. *Piṇḍa* offerings to the maternal ancestors henceforth became an integral part of the *śrāddha* ritual. 'Wherever the paternal ancestors are worshipped, there the maternal ones should necessarily be worshipped, othewise the offerer would go to hell.' 'It is only by offering *piṇḍas* to both the paternal and the maternal ancestors that the offerer is relieved of his debt to the fathers.' The celibate who was required to perform a *śrāddha* in honour of his paternal relatives was in course of time enjoined to offer *piṇḍas* to his maternal ancestors also. While Yājñavalkya tried to assign property to the daughter in the list of heirs, Kauṭilya went a step further and declared her as a co-heir with her brother. Kauṭilya's gesture is striking, not merely in point of the family status that is accorded to the daughter, but in its inconsistency with the patriarchal family organization towards which he leaned elsewhere. That his viewpoint represented neither the practice nor the prevailing opinion is shown by the fact that all the subsequent Smṛti-writers accepted Yājñavalkya's rule and tried to prove the daughter's right as natural and legitimate. Nārada justifies it on the ground that both the son and the daughter are capable of continuing the lineage of their father. Bṛhaspati reasons it out thus: 'A daughter, like a son, springs from each member of a man; how then should any other mortal inherit the father's property while she lives?'[15]

That she is not recognized as a co-heir with a son—which she should have been had her right to inheritance been justified on the ground that she is as good as a son—confirms our line of argument that the daughter gains in importance only after the Sūtra period.

This view is further confirmed by the fact that it is not only the daughter who is conceded right to patrimony, but a woman as such also gains in property right. We have seen how the scope of woman's property and her control over it were gradually widened in the Smṛtis. Likewise we find that once the widow was recognized as an heir to her husband's property by Yājñavalkya, her interest in the property came to be discussed and decided to her advantage. Kātyāyana enjoins: 'A chaste woman, on the death of her husband, gets his share: (but) she has no right during her lifetime to dispose it off by charity, mortgage or sale.' That Kātyāyana was thinking of the husband's share in the joint property appears from another verse: 'When the husband dies unseparated, the widow is entitled to food and raiment or she gets (her husband's) share of property for (her) lifetime.' Bṛhaspati once accorded the widow the right to immovables also, though in the next verse he denies it.[16] The interesting fact is that this text has not been discarded as unauthenticated by any of the later writers of commentaries or digests.

We have so far tried to examine how, with a new concept of family emerging in the Sūtra period, the daughter came to assume an important position and even property rights. That this interpretation of the Hindu family organization is reasonable is to be conceded in the light of its later development to which we may now turn. But it would first be desirable to take note of another trend of this period which also helps to place the whole process in its proper perspective. From the time of the Sūtras individual families were applauded as contributing to the increase of spiritual merit. Though no reference to this eulogy of the individual family which we find in Gautama and Manusaṁhitā is made in the Smṛtis, the tendency towards individualism was more clearly visualized and shrewdly tackled by the Smṛti-writers. When the widow and the daughter were accepted as heirs to a man's property, those nearest to him were assured of enjoying his property and therefore there was little reason for him to leave the joint-family. A man was allowed to retain some portion of his acquisition to himself. Further, the son was recognized as a co-heir with his father in the property of the grandfather by Yājñavalkya and others who followed him. An attempt was thus made to resolve the conflict between the joint-family and an individual's aspirations. There was, in the circumstances, no incentive left for a person to break with the joint-family as no significant advantages were likely to be secured by having his own home. The joint corpus of the family was thus maintained by the Smṛti-writers by means of harmonizing individual interests with those of the family.

Among the commentators who tried to interpret Smṛti law in the light of their own comprehension of it and in the light of the conditions of time and place in which they lived, Viśvarūpa allowed the widow to inherit not in her own capacity but merely as a representative of the son she was to bring forth through *niyoga*. Dhāreśvara, Halāyudha, Saṁgrahakāra and the author of Pārijāta held the same view. Medhātithi also appears to deny the widow any right to inheritance and Śrīkara allows the widow to inherit only when the property is small. And the same writers—Viśvarūpa, Śrīkara, Dhāreśvara, Saṁgrahakāra, Devasvāmī and Devarāja—admitted the daughter's right to inheritance only when she was a *putrikā*. Not only that but Dhāreśvara and Saṁgrahakāra upheld the old view that sons had no ownership in the father's property while the father was alive.

The writers from the ninth century onwards showed clearly their preference for the old patriarchal family constitution. These writers must have exercised a very powerful influence on Hindu law, otherwise there would have been little reason for Vijñāneśvara to enter into an elaborate discussion in order to refute their viewpoint.

Vijñāneśvara not only accepted the son's interest in the family property in the lifetime of the father but interpreted the text of Yājñavalkya to concede a right to the son to compel his father to come to partition during his lifetime and, if necessary, against his will. This joint interest also implied, according to Vijñāneśvara, authority on the part of the son to prohibit the father from giving away or selling the property of the grandfather. Vijñāneśvara consistently recognized the claim of the widow and the daughter as heirs in preference to the brother or the father, and went a step further by investing them with the absolute control over the property they inherited. He also recognized for the first time the daughter's son as an heir to property after the daughter, a natural procedure because the daughter was the absolute owner of her property. That this reasoning is sound was testified by Lakṣmīdhara who came about fifty years later than Vijñāneśvara. 'Although the estate which goes to a daughter is obstructed it obtains the nature of unobstructed heritage at the time of its devolution on the daughter if there is a daughter's son in existence.' 'As in the case of the father's heritage his son's appropriation of the heritage is bound up, and the son is proprietor in his father's wealth by reason of his sonship; so in the case of the daughter and the rest, if her issue in the shape of a son is in existence his proprietorship is by his sonship.' 'The conclusion has been established by those knowing the practices laid down in the three Vedas that the estate of the daughter's son passes, in his absence, to his son. Therefore, when it goes to a daughter it passes on to the daughter's son; and if he has a son in existence, his estate casts glances at him also. But there is this speciality, viz. if there is no one alive down to the daughter's son, it does not pass on to the daughter's son's son, but always reverts to the mother and the father.' While Vijñāneśvara made greater concessions to the individual interest, he did not overlook the interest of the joint-family. He did not conceive that anybody but a member of the family was capable of inheriting the family property. He did recognize some non-agnates as heirs under the category of *bandhus*, but it is very doubtful whether a *bandhu* could ever have succeeded to the property, as his claim materialized only when there was no *gotraja*, member of the family, however distantly related. Another interesting fact about Vijñāneśvara is that he even instituted a sort of control in the disposition of the self-acquisition. 'He (the son) has no right of prohibiting (his father) in respect of the acquisition of the father on account of dependence in that case. But consent should be given, i.e. even though ownership is by birth in the property of the father and of the grandfather, yet, on account of the dependence in the case of the property of the father and on account of the father's superiority by the fact of his being an acquirer, the son should give consent to the father's disbursing his acquired wealth.' A controlling interest by the son in the self-acquisition of the father was a great incentive to him to continue as a member of the joint-family.[17]

Jīmūtavāhana, who came after Vijñāneśvara, effected a tremendous change in the traditional Hindu law. He accepted the old Smṛti tradition embodied in the text of Yājñavalkya for the inheritance of property, but by enunciating a new theory to interpret this text he introduced changes of profound significance. The theory enunciated by him is known as the principle of religious efficacy and seeks to base inheritance on the right to benefit the deceased by the offering of *piṇḍas* at the *śrāddha*, and regulates preference by the degree of capacity to benefit. With the help of this theory Jīmūtavāhana was able to introduce the sister's son, the father's sister's son and the father's father's sister's son along with some of the collaterals in the list of heirs. These relatives may also be regarded as the daughter's son of the father, of the grandfather and of the great-grandfather. Therefore it may be said that Jīmūtavāhana introduced along with collaterals the sons of the daughters of the family as near kin and, as such, preferential heirs. When a daughter's son is looked upon as a kin, the mother's father *pari passu* becomes a near relative because, as a man forges a link with his daughter's son, he, as a daughter's son, has his link forged earlier with his mother's father. And again, Jīmūtavāhana, for the first time, ignoring the claims of every agnate as agnates in the family property, transmitted it to the mother's family immediately after the near agnates, the collaterals within four generations who are members of the basic family unit. Generally three generations live together, and it is rare that four generations are found doing so. The basic family unit in Hindu literature is predominantly the family of three generations.[18] Jīmūtavāhana has taken four generations as a basic unit. It may be that in Bengal, where the daughter's sons were at times members of the family, a family of four generations was not so rare. But this apart, he had to accept the unit of four because he had to justify his modifications on the principle of religious efficacy which itself contemplates the family unit of four generations. Hence, once the line of the great-grandfather, the agnates with whom he has close ties of affection, is exhausted, the line of the further agnates with whom he has no living contact is set aside. Instead, the line of the mother's father with whom his ties are as strong as those with his nearer agnates begins in the scheme of Jīmūtavāhana. It is only when the family unit of the mother's family is exhausted that the further agnates, left over, come in as preferential heirs. Other cognates have been ignored by Jīmūtavāhana, as they were by his predecessor. This scheme of inheritance appears to be logical and consistent with the principle Jīmūtavāhana enunciated, but as we have shown elsewhere[19] this theory of spiritual benefit was more a pretence than a principle in regulating inheritance in the Bengal school. When the scheme of Jīmūtavāhana is thus understood, it will be clear that, while Vijñāneśvara stopped with one's daughter's son, Jīmūtavāhana accommodated the sons of the daughters of the family. Jīmūtavāhana, therefore, very strongly confirms our delineation of the social process.

One may ask why Jīmūtavāhana went so far and how the people of Bengal could accept such wide modifications in the sacred law without demur. The spiritual benefits involved cannot explain why such stupendous and sudden changes in the norms were accepted so easily. Such revolutionary changes in a cultural pattern which had been tenaciously carried on for centuries and hallowed by religion must postulate a favourable clime for it. Once, in discussion, Professor Ghurye suggested that kulinism in Bengal must be one of the potent factors accounting for intimate relationship between a man and his daughter's son, and this is a point to which greater attention should be paid in the study of Bengali society. The whole scheme of Jīmūtavāhana when viewed against a background of kulinism appears in a new perspective. It is not suggested that kulinism explains Jīmūtavāhana's system of inheritance, but it is stressed that the property law of the Hindus has been determined by social conditions.

The same process seems to have been perpetuated by the followers of Vijñāneśvara. Nīlakaṇṭha admitted the sister as an heir after the brother. Nanda Pandit brought in the sister's son after the brother's son. Bālaṁbhaṭṭa introduced the daughter's daughter, sister, brother's daughter and sister's daughter as near heirs. Nanda Pandit, like Jīmūtavāhana, brought in the mother's relatives after the great-grandfather in preference to the collaterals in the fifth generation and beyond.[20]

The striking fact about these commentators and the writers of the digests is that, while they were tacitly recognizing trends towards individualism and modifying the law on a bilateral principle, they insisted on the joint-family, and the agnatic constitution of the family. Jīmūtavāhana took strenuous pains to establish the absolute authority of the father over the family property in spite of Yājñavalkya's categorical expression of the son's and the grandson's inherent right in that property and Vijñāneśvara's lucid and admirable exposition of it. The *piṇḍa* theory which Jīmūtavāhana made his guiding principle for the law of inheritance implied, as we have shown elsewhere, that four generations were closely bound to one another with ties of right and duty. And consequently these *sapiṇḍas* must form a coparcenary with inherent right in property. Kauṭilya gave expression to such a coparcenary when he observed that 'sons or grandsons till the fourth generation from the first parent shall have shares in that property which is acquired by means of their undivided ancestral property, for the *piṇḍa* as far as the fourth generation is uninterrupted'. Devala also referred to this coparcenary of *sapiṇḍas*: 'The second partition among the relatives, undivided or re-united if divided, takes place up to the fourth generation. To that extent relatives are called *sapiṇḍas*; beyond this takes place a severance of *piṇḍa*. They declare that partition of inheritable property is co-ordinate with the severance of *piṇḍa*.' Kātyāyana, who had before him the coparcenary of three generations in the memorable text of Yājñavalkya, also formulated a coparcenary of four generations, although like Devala and Kauṭilya he does not associate this inherent right in property with the obligation of *piṇḍa* offerings.[21] Strangely enough, Jīmūtavāhana ignores the inherent right of the *sapiṇḍas*, and this further confirms our stand that the principle of religious efficacy does not explain the law of property of Jīmūtavāhana. But why should Jīmūtavāhana have ignored the implications of his theory while seeming so conscious of it from the way he tried to explain away the text of Yājñavalkya?[22] It seems that he was disintegrating the joint-family by upholding the claims of the sons of the daughters of the family against the collaterals. But it was never desired that the joint corpus of the family should be weakened, and hence he sought to maintain and strengthen it by upholding the absolute control of the head of the family over the property.

The whole history of the Hindu family unfolds one significant fact, viz. that even when the trends towards individualism were recognized and attempts were being made to harmonize them with the interest of the joint-family, the family constitution was unequivocally declared to be, and maintained as, joint and agnatic. Hindu sentiments are hence even today in favour of the joint-family. The destruction of the joint-family by legislation is therefore rightly considered to be non-Hindu, because it ignores Hindu family history and sentiments.

The joint-family is generally supposed to be a characteristic peculiar to the Hindus. As a matter of fact, it seems to be general in India, as it is found among many communities, non-Hindu as well as Hindu. All Hindus do not, however, follow the Brahmanic pattern of marriage and family and hence family patterns not only differ in detail but, to a certain extent, even in principle. The patriarchal family is found among the

Nambudiris and Coorgs of South India. Among the Nambudiris it closely resembles the patriarchal family of the Nairs. Thus in Kerala (Malabar) there are two family patterns, alike and yet distinct from one another ; and both have gone through a similar metamorphosis.

The characteristic feature that distinguishes the *illom* of the Nambudiri from the joint-family of the Hindus is the impartibility of family property. All the members have interest in property which belongs to the *illom*, but it is not generally divided by the members because the community of interest cannot be severed by partition without the consent of all. This impartible character of the *illom* is brought out by an interesting question, viz. whether the son of a Nambudiri is under a pious obligation, as in the Hindu Law, to discharge his father's debts. The learned judges observed: 'As the property is joint and impartible and belongs to the whole family and the father has in it no definite share that could be made available for his individual debt, or which devolves on his death to his son to the exclusion of the other joint members of the family, there is no reason for the application of the rule of the pious duty of the son to pay the father's debt.' The continuation of *illom* among the Nambudiri is facilitated by the fact that generally only the eldest son marries a girl from his caste and perpetuates the family. Other members, although not theoretically debarred from marrying women from their caste, generally do not marry a Nambudiri woman. It is only when the eldest fails to have children that the next senior member marries and continues the family. The right of partition being restricted, the only tangible right of the junior member of the *illom* is the right to maintenance. But 'as the members have no right of compulsory partition and as such they are prevented from making suitable arrangements for the maintenance of their widows, the manager cannot be left without check in his disposal of property'. Hence, though the eldest son has absolute control of the *illom* property vested in him as the head of the family, he 'has no power to alienate permanently by sale, gift or otherwise any portion of the common property without the consent expressed or implied of all'.

The protection thus afforded to the interest of other members of the *illom* has another significant implications: 'If the property of a Nambudiri *illom* is impartible and is intended to be enjoyed by the members of the *illom*, both male and female, from generation to generation, the only way of preserving the property from needless waste is by empowering all the members interested to see that the property is not wasted or alienated by the manager for the time being.' Accordingly, the wife is competent to sue in order to set aside an alienation made by her husband, and she can even sue to remove him from the management of the *illom*. It follows that 'no permanent alienation of an *illom* property can be valid unless it has been assented to by the female members'. This position of the woman was once challenged by a judicial decision which laid down that in making alienation the manager need not consult the female members. But local custom appears to be in favour of recognizing equal proprietary rights of both the male and the female members. And this seems to represent the correct position because 'the last surviving member of an *illom*, if such member is an *antharganam* (or female) is competent to dispose of the *illom* property by gift or sale'. Even here, the unrestricted power of alienation of a female is denied by some who concede that such a widow has 'the power to appoint an heir to perpetuate the *illom* which is otherwise likely to become extinct'. She has likewise 'the power to direct a Nambudiri to marry specially for her *illom* under an agreement that the son if born should be heir to her *illom*'. This right of the widow to devise means of perpetuating the *illom* either by adoption or by a *sarvasadānam* form of marriage is retained by her even now when 'the Nambudiris are governed by the Hindu Law (of the Mitākṣarā School) except so far as it is shown to have been modified by usage or custom having the force of law'. A Nambudiri widow is allowed to adopt without the authority of her husband or the consent of his *sapiṇḍas* in the same way that 'a Hindu widow is (allowed to) adopt without authority in the Bombay and Madras Schools provided there is no prohibition from the husband and, in cases governed by the Madras School, the assent of the husband's kinsman is obtained'. Nambudiri *illom* thus differs from the Hindu joint-family in two respects. It has maintained its patriarchal character by the principle of the impartibility of *illom* property. Secondly, a Nambudiri female possesses greater rights than her counterpart in the Hindu family who has only a right to maintenance.

A Nambudiri male is allowed possession of his own self-acquisition which on his death, says J. D. Mayne, passed to his heirs under the Mitākṣarā law. According to M. P. Joseph, however, the Privy Council decided that the self-acquired property merges into the family property as is the case among the Nairs. The Privy Council seems to have arrived at this view on the assumption that 'the eldest brother alone usually marries and the others, as is the case among Nairs, consort with Nair women otherwise than with the sanction of marriage'. But in a later case; where the question was raised whether the self-acquisitions of a Nambudiri Brahmin go on his death to his *illom* or to his son, Justice Sesha Iyer in a learned judgement upheld the view that Nambudiris are primarily governed by the Hindu Law, a view also held by Mayne.[23]

The payment of dowry to the bridegroom is an important feature of the Nambudiri marriage. Logan observed that the dowry was often heavy and many an *illom*'s resources were drained in that way. This should have induced the Nambudiri youth to marry within his caste, and yet only the eldest son was allowed to marry a Nambudiri girl, though the right of other sons theoretically was not denied. It is evident, then, that marriage was regulated to ensure the continuance of the impartibility of the *illom* by keeping its size within bounds for management and the number of claimants to property limited. The junior members of the *illom* had right of maintenance in the *illom* property and were entitled to restrict the authority of the eldest senior male, to alienate *mala fide*, without necessity and without the consent of all members of the *illom*, property within his charge. This peculiar adjustment of the *illom* and individual interests resulted in polygynous unions on the one hand, and late marriage or spinsterhood of the females on the other. 'An aged Nambudiri having a young bride was a common case.' And yet it failed to provide for matrimony for all the females, firstly because of its exactions in the form of dowry and secondly because it limited the number of wives of an individual male to three.[24]

Before leaving the Nambudiri family organization, an observation not directly relating to it may be made. The Nambudiris managed to maintain their patriarchal family organization by allowing all their sons except the eldest to consort with Nair women. They could have done it as well by resorting to polyandry instead of forming alliances with Śūdra women. Polyandry would not have created more serious problems than the method they adopted. If the Nambudiris are in fact Aryan immigrants who left their home in the North when the traditions of patriarchal family and of post-puberty marriage were still strong, they must be assumed to have brought with them a repugnance to the polyandrous form of union. Consorting with Śūdra women was fairly widely current from Vedic times and the Nambudiris can be understood to have taken to it. But the Vedic Brahmins had by then developed a strong bias for endogamy. This assumption, if correct, lends support to our view that the tradition in favour of polyandry did not form part of the Brahmanic cultural tradition embodied in the Vedas and in sacred literature.

11

THE STATUS OF WOMAN

WOMAN IN THE VEDIC AGE APPEARS TO HAVE ENJOYED A COMPARATIVELY higher status than that enjoyed by her sisters in the post-Vedic age. She was the very centre of the domestic world and was its empress. Domestic happiness and conjugal affection are constant topics of allusion in the Ṛgveda, and the seers of the Saṁhitās never tire of speaking of the bond that binds them to a happy home governed by a contented wife. The Vedic seer implored his gods: 'So may the universal gods, so may the waters join our hearts; may Mātariśvā, Dhātar, and Deṣṭṛ together bind us close.' The ideal was a 'never parting' 'united pair' 'sharing the same married pleasures', and the happiness of the married couple lay in 'the twining of their arms about each other' and in 'each welcoming the love and embraces of the other'. There was a complete surrender on the part of the wife to which the husband responded and which he returned in full measure.[1] This sweet harmony was at the root of the wife's dominion in the home, even over the husband's brothers and parents. 'A man continues to be half as long as he remains a bachelor, but after marrying a wife he becomes complete.' 'The Creator (Brahmā) having divided his own body into two,' says Manu, 'became male by one half and female by the other half. So divided, man and woman become a perfect person only when united again in wedlock.' The wife is her husband's *ardhāṅginī*,[2] and the marriage ritual seeks to stress and reinforce this conjugal intimacy. The important rites therein, *pāṇigrahaṇa* (taking the bride's hand) and *saptapadī* (going seven steps together), are symbolical expressions of union on the two levels of equality and friendship.

The ideals of marriage were the performance of *dharma* and the propagation of race, the fulfilment of both of which required communion with and co-operation from the wife. It was perhaps to impress the wife's partnership with a man in his religious duties that it is stated in the Taittirīya Brāhmaṇa that half the sacrifice of a person whose wife keeps away from the ceremony is lost to him. And it is hence that one finds even a wife known to have a paramour, sitting with her husband as his joint participant at the sacrifice. The Aitareya Brāhmaṇa raises the question: How is a man who is a bachelor, or whose wife is dead, to perform the sacrifice? It then answers that such a man should imagine *śraddhā* as his wife and *satya* as his *yajamāna.* Then with such an excellent pair as faith and truth he will certainly obtain heaven. The Gopatha Brāhmaṇa alludes to the wife's place in the sacrifice even more emphatically by saying that if she be in season she is to be sanctified with cooked frumenty to enable her to accompany her husband in conducting sacrificial rites. Pāṇini giving the etymology of the word *patnī* wrote that it could be applied only to the wife who shared in the sacrifice.[3] The Gṛhyasūtra- as well as the Dharmasūtra-writers accepted this privileged position of the wife and were in favour of according her an even higher status. The wife may offer the morning and evening oblations, writes Gobhila, if the husband is unable to offer them ; for the wife is, as it were, ' the house ' and the fire is ' the domestic fire '. The wife can make gifts (out of the common property) in the absence of the husband if occasion so requires. A husband is not allowed to think of a second wife as long as the two ends of marriage, *dharma* and *prajā* are realized in his first wife's company ; so a man is asked to marry a second, a third and a fourth time in order to have a wife to join him at the *agnihotra.*[4]

In the Manusmṛti we find restrictions that tended to deprive woman of her traditional status. The investiture of the sacred thread which initiated a person into the study of the Vedas came to be confined only to male children, the females being entitled to only one sacrament, namely marriage. In the Gṛhyasūtras sacraments, *saṁskāras* were allowed to be performed in the case of women also; but they were performed silently, i.e. without the Vedic *mantras*. This was in consonance with other rules governing domestic rites: for example, 'when the head of the family returns home, he kisses his son's head with the *mantras* and that of the girl silently'. Once women were prohibited from access to the Vedas, they were, as a natural corollary, only permitted to participate in religious rites as passive partners. Naturally, then, 'a wife is not independent with regard to the fulfilment of the sacred law'. Manu is even more specific when he forbids a married woman to offer an *agnihotra*, 'for by offering burnt oblations, they sink into hell'. Manu further ordains that 'there are no specific sacrifices for women independently of the husband, nor *vratas* nor fasts without his consent'. And he imposes his new rule by exhorting Brahmins not to attend feasts given on such occasions.[5]

Women of Vedic India were educated; and there is a categorical injunction that a woman, on finishing her period of studentship, *brahmacharya*, should be married to a learned young man. The celebrated seers of the Ṛk hymns and the highly renowned *brahmavādinīs* of the Upaniṣads—Gārgī and Maitreyī, for example—who displayed talent and temerity in participating in metaphysical discussions, provide us with a measure of the intellectual attainments reached by women of the age. Down to the times of Āpastamba women appear to have pursued academic careers, as Āpastamba notes 'that the knowledge which women possess is the completion of all study'. And still later the author of Amarkośa has testified to this fact by interpreting *āchāryā* and *upādhyāyā* as respectively 'one who herself is capable of expounding the hymns of the Vedas' and 'one who herself discourses on knowledge'. Hārīta coming still later has spoken both of women who are *brahmavādinīs* and of those who are ordinary. Even in the Rāmāyaṇa, Kauśalya and Tārā are addressed as *mantravid*, well versed in the Vedas, and the Mahābhārata provides us with Sulabhā, a virgin scholar, and Draupadī, the learned (*paṇḍitā*).[6] It was possible for women to become scholars only so long as they were allowed to be initiated for Vedic study. Although there is evidence in the Gṛhyasūtras which allows us to assume that this privilege was not denied to a woman, there is also a categorical plea for her early marriage, when she was *nagnikā*, 'whose breasts are not yet developed'. The next step was to deny her the right of initiation in clear terms so as to preclude her from having any access to the sources of knowledge. Once deprived of this right she was on a par with a Śūdra, and in the Bhagavadgītā she is equated with the Śūdra. Thereafter in the whole marriage ritual it is offspring, particularly the birth of a male child, which is the recurring theme in all the *saṁskāra*-rites performed.[7] *Dharma* takes second place to the virtues of procreation, at least for women, in the post-Vedic literature.

Manu enunciates the ideal of wifehood as in essence meaning the negation of her personality. 'The husband must constantly be worshipped as a god by a faithful wife (*sādhavī*), even if he be destitute of character or seeking pleasure elsewhere or devoid of good qualities.' A good wife desirous of living in this as well as the next world with her husband, must never do anything that would displease him, either alive or dead. A woman attains paradise 'not by virtue of any austere penance but as a result of her obedience and devotion to her husband'. 'Women have no sacrifices or fasts ordained for them. Neither are they called upon to perform the *śrāddhas*. To serve and worship their husbands with respect and obedience is their only duty. By the fulfilment of that duty alone they succeed in attaining heaven.'[8] When her husband goes abroad, the wife should live a life of restraint. This implies, as Yājñavalkya elaborates, that she should avoid amusements, ornamenting the body, participating in social gatherings and festivals, smiling and visiting others' houses.[9]

Manu may have looked upon the wife as mistress in her own home, which is what is generally assumed to be her sphere of influence, as he pleaded that the partners should have (as indeed they should) different spheres of influence in which each was supreme. And yet even in the domain said to be hers the wife does not appear to have exercised a controlling voice. 'Even in the home nothing should be done by a child, a young or even an old wife (woman) independently.'[10]

In order to justify the low status which he is out to assign to the woman, Manu confirms and stresses the prejudicial view in respect of her sexual appetite. 'Women must particularly be guarded against evil inclinations, however trifling they may appear to be ; for, if they are not guarded, they will bring sorrow on both the families. Considering it the highest duty of all castes even weak husbands must strive to guard their wives.' It seems from this last sentence that Manu fears intimacy between persons of different *varṇas*, and that in order to regulate sex intimacies on the pattern of social hierarchy embodied in the theory of *anuloma* and *pratiloma* marriages he denigrates sexual impulses in woman and justifies rigid control over her behaviour, thus rationalizing his ideal of lifelong fidelity to the husband. 'Women do not care for beauty, nor is their attention fixed on age ; they give themselves to the handsome as well as to the ugly, just for the fact that he is a man.' 'When creating women, Manu allotted to them (love of) their bed, seat and ornaments, passion, anger, dishonesty, malice and bad conduct.' 'If she be chaste, it is because she has not found a proper man, place or opportunity.' 'It is the nature of woman to seduce man in this world. She is able to lead astray not only the ignorant but even a learned man and make him a slave of lust. It is hence that she is called *pramadā*, a temptress.' 'Woman was created for infatuating man and hence there is nothing more heinous than woman.'

Manu was backed in this by the Epic and the Puranic writers. 'Love of scandal and the lust of sex the Creator gave to women. A man can never guard them by words, blows or punishments of various kinds for they are always unbridled. He who watches over them beats the air with his fists.' 'Women deprived of sex grow old.' 'A man with a hundred tongues, even if he were to do nothing else but lecture upon the vilest defects of woman, would not finish them in a long life of a hundred years.' 'Through their passion for man, their unstable temper and inherent heartlessness they become disloyal to their husbands, however carefully they may be guarded, in this world.' Manu therefore wants woman to be under the surveillance of her father in her childhood, her husband in her youth and her sons on the death of her husband. 'A woman should never think of independence from the father, the husband or the sons because by so doing she will make both the families contemptible.'[11]

This shocking defamation of woman drives sensible people to ask what Varāhamihira did in the sixth century A.D. 'Who suffers more from the sex urge, men who marry even in their old age or women who lead a chaste life even if widowed in the prime of their life? Who is more sincere in love, the man who contracts a second marriage just after the death of his first wife or the woman who follows her husband on his funeral pyre? The fact is, men treat marriage vows lightly while women act up to them. . . . It is (hence) the height of impudence and ingratitude to say that women are fickle, frail and faithless.'[12] It is obvious that Manu as well as the Epic and the Puranic writers were conscious of the weakness of man and that they attributed this weakness to woman. The Mahābhārata records of such gods as Sūrya, Agni and Indra, and of sages like Parāśara, Dīrghatamas and others, that they deflowered virgins by persuasion or under the threat of a curse and that they seduced married women by pretending to be their husbands. Over and over again we are told in the Mahābhārata how a king honours a Brahmin, a penitent or a holy man by handing over a princess to him. Likewise, sages honour kings by begetting sons on their queens allegedly in response to the king's request. When gods and sages are libertines, what can one expect of men? Manu seems to appreciate this point when he says: 'Manu, on the eve of his departure from this world, made over women to the care and protection of men; for he knew that women are weak and would fall an easy prey to the seduction of men because of their sensitive character which quickly responds to any offer of love. They have no strength of will to resist temptations.'[13] What is shocking is that flirtation on the part of man is not condemned but glorified. The woman, on the other hand, who is a pawn rather than an offender in this mischievous game, is held up as the embodiment of lust and depravity. 'It is,' as Varāhamihira puts it, 'just like the audacity of thieves who first defraud a person and then cry, "Stop, you thief!".'[14]

The saints who flourished in different parts of India in the thirteenth to sixteenth centuries propagated the ideal of equality between man and woman as well as between man and man. All were equally the sparks of the one supreme deity. These saints came from all layers of society, particularly the lower ones, and women were included amongst them. They were revered irrespective of their caste and sex by people who congregated around them for enlightenment and participated in their devotional songs. Women came to hear them from the confines of their homes and learned of their equal right to be leaders of society. The Bhagavadgītā had preached redemption through *bhakti* for both Śūdras and women. This movement gave concrete expression to that ideal and in so doing challenged the Puranic ideal of redemption for women through obedience to and in the service of their husbands (*pātivrātya*). The equality and freedom for women implied in this movement was a progressive landmark in the history of Hindu womankind.

The basic attitude of these saints was, however, conservative; they conformed to traditional beliefs and values. Although they did not deny the worthiness of marriage, they revealed ascetic turns of mind and lauded the renunciation of worldly pleasures. Their approach to women was strongly prejudiced by their indifference to the realities of life. A woman to them was a great obstruction in the way of spiritual realization. 'An aspirant,' wrote Ekanatha, 'must therefore keep himself aloof from the influence of woman.' Tukaram evinced a similar prejudice against women. 'Give me not the company of women . . . for by them I forget God's worship and my mind goes beyond my control.' Kabir called woman a hellish well.[15] Nevertheless, those who were themselves married treated their wives with humane and sympathetic consideration. They called and spoke to them whenever and as much as necessary—but they never allowed them deeply to engage their minds. What they decried was the sex aspect of the male-female relationship; but sex is not the whole woman. They closed their eyes to her ability to achieve spiritual freedom, despite the examples of female saintliness amongst them, and it is evident that the traditional perverted approach to woman dominated their thoughts.

Whenever these saints were persecuted by those members of the higher castes who dominated society, the saints meekly tolerated the social tyranny, without challenging the authority of the higher castes to indulge in it and thereby implicitly accepting injustices in the social system. This first convulsion in Hindu society, therefore, failed to bring about any significant change in the status of women.

The British organized an administrative machinery which required educated young men to service it. Although English education was, according to Macaulay, introduced to enlighten the people of this land and to help them take their due place among the nations, it came to be used primarily to create a cadre of administrative staff. Raja Ram Mohan Roy was the first great mind to see the true potentialities of the English language. He saw that it could be used not only for the participation of the people in the administrative and political life of the country, but to transform the social system which was so much responsible for the conditions of poverty that prevailed. Works in English contained not only scientific and technical ideas whose propagation was necessary for economic improvement but also liberal and democratic ideals about which it was necessary that Indian people, suffering from social injustices of the highest magnitude, should know. Accordingly, in a memorandum submitted on 2 December 1823 to the Governor-General, Raja Ram Mohan Roy pleaded for the introduction of Western education into India. 'As the sum set apart for the instruction of the natives of India was intended by the Government in England for the improvement of its Indian subjects, I beg leave to state . . . that if the plan now adopted be followed, it will completely defeat the object proposed; since no improvement can be expected from inducing young men to consume a dozen of the most valuable years of their lives in acquiring the niceties of *vyākaraṇa* or Sanskrit grammar. . . . But as the improvement of the native population is the object of the Government it will consequently promote a more liberal and enlightened system of instruction; embracing mathematics, natural philosophy, chemistry, anatomy with other useful sciences which may be accomplished with the sum proposed by employing a few gentlemen of talents and learning, educated in Europe, and providing a college furnished with necessary books, instruments and other apparatus.'[16]

Raja Ram Mohan Roy did not stop at this but started on an active career of removing social injustice as far as it lay within his power. The task that first attracted his attention was the plight of woman, her immolation and enforced widowhood. He tried to convince the people that widow-remarriage was sanctioned by the *śāstras* and by the religion preached in the Vedas, and that the Smṛtis did not sanction enforced widowhood. He stood by the Government when the inhuman practice of *sati* was penalized by law and pleaded successfully for it before the Privy Council against the petition filed by the orthodox section of the community to repeal the Act. The agitation he started culminated in legislation brought forward by Ishvarchandra Vidyasagar, the Widow Remarriage Act of 1856.

Ishvarchandra Vidyasagar foresaw that the future of women lay in their being educated, and he devoted himself strenuously to the propagation of female education. The Béthune School, founded in 1849, was the first institution in Calcutta for female education. A start was made in Bombay in the same year through the efforts of the boys of Elphinstone College, and in Ahmedabad, with one student, under the aegis of the Gujarat Vernacular Society. Lord Dalhousie lent Government patronage to this movement. 'It is the opinion of the Governor-General in Council that no single change in the habit of the people is likely to lead to more important and beneficial consequences than the introduction of education for their female children.'[17] Charles Wood's dispatch of 1854 recognized encouragement of female education as a part of the Company's policy; but in spite of such an encouraging beginning public apathy prevented the movement from making much headway. The attitude of the time to female education is picturesquely brought home to us by two incidents: 40 per cent of the students of a girls' school in Ahmedabad were withdrawn from the school by their parents in 1874 to protest against the remarriage of a twelve-year-old Jain widow, the first remarriage in that community.[18] And when in the year 1875 one Khursetji Postmaster asked the Syndicate of Bombay University to permit his daughter to appear for the Matriculation examination, the Syndicate refused permission because they thought that the University Act did not allow it. The attitude of Calcutta University was the same and Chandramukhi Basu was treated similarly there soon after. It was due to the efforts of C. P.

Hobhouse, its Vice-Chancellor, that girls began to be allowed to appear at the entrance examination from 1877 onwards. Two women graduated in 1882, and by 1886 145 women students were receiving education in Arts colleges. By the close of the century, public opinion had been brought round to accept primary and secondary education as desirable for girls.

The progress of education for women was, however, very slow during the years that followed. Smt. Vidyagauri Nilkanth has recorded that when she and her sister attended college in Ahmedabad in the first decade of this century they were jeered at and teased by their male co-students and, but for the persistence of Ramanbhai Nilkanth to stick it out in spite of humiliation, they would have received no college education. In the face of such difficulties, some arrangement to provide education for women in separate institutions was necessary if any progress was to be achieved. D. K. Karve had started a Female Educational Institute (Mahila Vidyalaya) in 1907, and by 1915 he had also succeeded in starting a women's university. Karve's aim was 'to frame an optional course in which the goal will not be to prepare the students for an examination but to prepare them to be good wives, good mothers and good neighbours'. He believed that 'women as a class have different functions to fulfil in the social economy from those of men'.[19] As the syllabus offered encouraged the traditional functions of women, as instruction was imparted in the mother-tongue and as the Institute was exclusively for women, traditional resistance against higher education for females was overcome.

Agitation against the social injustice inherent in the Hindu social system which was organized by Raja Ram Mohan Roy and Ishvarchandra Vidyasagar began to gain in strength when Mahadev Govind Ranade, with his vision, sought to develop it on a national scale. Ranade put forward the idea of a National Social Conference to carry on collectively and in an organized way the social reform movement launched against social injustice, particularly against inequality of the sexes. Ranade not only strengthened the movement by founding the National Social Conference but gave breadth to it by enunciating the object of the conference in general terms. The 'issue is not this or that particular reform about which people have so much controversy, but the general spirit of parity, justice, equality, temperance and mercy which should be infused into our minds and which should illuminate our hearts'.[20] It was increasingly felt that social institutions had to be revalued and, if necessary, altered.

The Indian National Congress, which was founded in 1885, drew a certain number of women into the vortex of the country's political life. The Indian National Social Conference which was held in the same pandal at the close of that political session provided a forum for discussion about the changed position of Indian womanhood and pleaded for the urgent need for reorientating the traditional institutions in response to this change. This accidental juxtaposition of the two events inspired a new faith that political progress without social progress was incomplete and that democratic ideals in India were not to be confined to political life alone but should be extended to social life. Ranade put the matter thus: 'You cannot have a good social system when you find yourself low in the scale of political rights, nor can you be fit to exercise political rights and privileges unless your social system is based on reason and justice.'[21] Lokamanya Tilak, however, believed in political progress first, keeping in abeyance the question of social reform, and through his opposition at the Surat Congress in 1907 social problems ceased to be discussed in the pandal of the Indian National Congress. When Gandhiji took the leadership of the Congress, political freedom, social freedom, and economic freedom all came to be pursued as the programme of the National Movement.

The National Movement brought women from their hearths to face lathis and bullets and gave them not only a consciousness of their own strength, but a new vision of their true place in society. This was a great event for more than one reason. At first it was easy for women to leave their homes for public life in the national cause as this move was supported by their husbands and guardians; but when they themselves became aware for the first time of their capacities for work, suffering and leadership, they were faced with the greater challenge of organizing themselves to fight for their due status in both home and society. The movement further provided a suitable opportunity to assess the work done so far in the liberation of women by organizations that had emerged in the earlier part of the century—such as the National Council of Women and the Women's Indian Association, as giving concrete expression to the decisions of the Indian Social Conference—and to devise further measures for advancing the programme of women's freedom. The All-India Women's Conference was the product of this assessment. At its first session in Poona in 1927 it confined itself largely to the educational programme for women, but soon (1929) enlarged the domain of its activities to take in all social problems. Indian women had now evolved an organization, led by themselves, which was to strive to establish equal rights and opportunities for all citizens of India regardless of sex. Unfortunately 'a great proportion of its activity was confined to passing of numerous resolutions on work in different spheres, social, political, economic and educational, and for all classes of women. The practical work undertaken to implement those resolutions was, however, extremely meagre. The demands embodied in those resolutions for the uplift of the mass of women often remained, in substance, paper demands.'[22] This was mainly due to the fact that the members of this organization were generally upper middle class women actuated more with a desire to dabble in social work than with a capacity to put in sustained effort for its realization.

The decade 1920-30 also witnessed other measures of far-reaching importance, the most important of which may be said to pertain to women's property rights. Kauṭilya was the first and only authority to recognize a daughter as a co-sharer with her brother in the patrimony; but even so, a woman's right to property was not a concept peculiar to Kauṭilya. From the way Yāskācārya debated the question, it is clear that it was one of the prevalent traditions in his day, though he does not subscribe to it. Among later writers, Nārada recognizes the daughter as a claimant to the patrimony in the absence of a son, as both the son and the daughter continue the lineage of their father. Before him Yājñavalkya had also recognized the daughter's claim prior to any collateral or kin; but only in the absence of a son or widow. The early commentators refused to recognize this position of females in the scheme of devolution of property and it was left to Vijñāneśvara to uphold it by entering into a long discussion to refute his predecessors. But though specific recognition of the rights of certain females was known from early times, the rights of a number of other near female relatives were not recognized except in the works of later writers,[23] whose interpretations were not accepted by British courts in India. The question was taken up in the 'twenties when women's problems engaged the attention of the progressive group. One of the issues was to provide a degree of economic security to a near female relation. The Hindu Law of Inheritance (Amendment Act) of 1929 recognized such females as the son's daughter, daughter's daughter, sister and sister's daughter as heirs after the father's father, 'if it is not contrary to special family or local custom having the force of law', and woman's interest in property was later recognized by the Hindu Woman's Right to Property Act of 1937. Under this Act the widow has the same interest in the property as her husband had himself. Accordingly she has the same right of claiming partition as a male member of the coparcenary. But the Act does not make her a coparcener although she has that status and as such is the survival of her husband's *persona* in the family after his death. The Act also recognizes the widow of a pre-deceased grandson as entitled to her husband's share in the family property. 'The main and radical change effected by the Act is to make (*i*) the widow of the deceased an heir along with, as well as in default of, the male issue, and (*ii*) the other two widows not only heirs for the first time in all schools but heirs in preference to the daughter and daughter's sons.'[24]

This was an outstanding achievement for women. Equally outstanding in the time that follows is the rapid progress of female education. Between 1932 and 1937 there was a significant increase in the number of girls attending secondary schools, and within the ten years that followed it increased by a third again and included a large number attending secondary schools intended only for girls. The number of girls attending such schools multiplied fourfold in the decade following Independence.[25]

Year*	Girls in all secondary schools	Index of progress	Girls in girls' secondary schools	Index of progress
1931-2 ...	196,170	100	81,249	100
1937-8 ...	331,446	169	110,133	136
1941-2 ...	410,333	209	144,744	179
1946-7 ...	442,503	226	232,136	286
1949-50 ...	700,000	357	...	...
1951-2 ...	904,755	461	448,929	554
1958-9 ...	1,846,369	842	975,457†	1,204
1959-60 ...	2,140,710	1,092	1,079,278†	1,332

* Pre-1947 figures are for British India, excluding princely states; post-1947 figures exclude Pakistan and Kashmir.

† Excludes schools which do not teach up to the school-leaving examination.

Even more encouraging progress can be seen in the number of girls attending colleges:

Year*	Girls in colleges	Index of progress
1931-2 ...	1,206	100
1937-8 ...	6,622	549
1941-2 ...	13,503	1,125
1946-7 ...	18,752	1,558
1948-50 ...	38,376	3,192
1951-2‡ ...	45,263	3,767
1958-9‡ ...	124,722	10,382
1959-60‡ ...	137,418	11,450

‡ General education only, i.e. fine arts, etc. excluded.

There have also been tremendous developments in the field of primary education for girls. In 1931-2 1,944,070 girls attended primary schools in British India; by 1959-60 the number was 10,336,413 for all states of the Union. In short, the progress of female education can be measured by the fact that in 1931-2 (British India) 2·3 per cent of women were educated, by 1951 this percentage had risen to 7·9 and by 1961 to 12·9.[26]

The rapid strides that education has taken during the last twenty-five years have a great significance for Indian womanhood as women can now be economically strong and assertive. It was considered derogatory for a woman to take work outside the home, being primarily a question of social prestige and secondarily of involvement in the company of men. Also, women were generally illiterate or only partially educated and as such not qualified for many forms of employment. As early as 1907 both G. K. Deodhar and D. K. Karve had stressed that women should be educated to be self-reliant, because the possibility of improving their status in the home and in society was meagre in the absence of economic independence. Deodhar further believed that 'India needs just as much an army of trained women workers in various fields of national advance for the benefit of their sisters, as she needs a band of devoted and trained men to lead her courageously in her onward march' Animated with this desire he started the Sevasadan in Poona in 1909 and classes for training women as nurses and midwives were organized, but the orthodox reaction was overwhelming and it was not until 1912 that the first two girls were trained as nurses.[27] The traditional resentment persists to this day, but this early step has borne some fruit. In the first instance, many women of the upper middle class look to social service as a career and this has been accepted by society in so far as other women have followed their example. Secondly, once the concept of self-reliance for woman was accepted, openings were made for their gainful employment.

The inquiry that the author carried out in 1953 sheds light on the attitude of educated men towards women's economic independence. Of the graduate teachers 55·4 per cent believed that the primary duty of women is proper management of the home and activities outside the home may be taken up 'for some hours only', 'if they get time after home affairs' or 'if it does not conflict with the main aim'. Although 41·1 per cent of the teachers conceded freedom to women to work outside the home, only 24·5 per cent favoured the idea of women's engaging in gainful occupation. In total perspective 34·3 per cent of the Hindus wanted women to take up some kind of social service.

Social service has become a fashion in modern India with women who belong to the higher income groups or who are highly educated. We have no wish to disparage the work these women are doing; but it is useful to assess its significance in raising the status of women. Although social service has its own advantages for the Hindu woman in allowing her wide contacts and free movement, it cannot be claimed that it provides her with economic independence. And the progress it makes towards bringing her closer to the freedom necessary to develop her personality is limited.

Under the pressure of economic necessity, opposition to the gainful occupation of women is steadily diminishing. The Second World War, and particularly the period after its close, hit the middle class so hard economically that this change in attitude is shown even by members of the older generation. Another change brought about by the War is that types of employment for women have increased. Formerly a woman could only be a nurse or a teacher, a typist or a telephone operator. Now women work in the police force, as office secretaries, bus-conductors or shop assistants, and they can practise as doctors, lawyers or engineers; many are engaged in the administrative and political services.[28] Wages and opportunities for promotion in many offices and factories are now the same for female as for male workers.

A woman confined to the home often lived the life of a domestic servant or was merely a child-bearer to her husband. But when women began to seek extra-domestic work, they came into association with people of different communities, people with different tastes and aptitudes and different outlooks on life. Such contacts began to make an impression on the Hindu woman and helped to mould her personality. For the widow, outside contacts had the additional advantage of liberating her from the life of humiliation imposed on her by tradition. This emancipation has therefore been an event of tremendous social significance. The outlook of the Hindu woman is enlarged, her opinions find perspective, her creative energies are unfolded, her personality is developed; also she realizes her rights and her place in society.[29]

However, even now that the employment of women is accepted as inevitable and is often encouraged, traditional ideas still dominate even the intellectuals and the leaders of the nation. Not many years ago the late B. G. Kher told the Bombay legislature: 'To my mind, the ordering of home, the bringing up of children, the bringing to the home the best possible help which modern achievements can provide, require not merely the greatest intellectual effort but the most sustained effort of service, that infinite capacity for taking pains which amounts to genius. These are spheres where woman excels She is peculiarly fitted for this task, although I hold the view that occupations like cooking and domestic arrangements should also be undertaken by men in order to convince women that we do not attach any stigma or inferiority to these occupations.' The late Dr Rajendra Prasad is also reported to have emphasized in a convocation address that 'he considered the work within the sphere of family to be more important than in the offices and factories and this work could be done only by women. . . . The supreme freedom for a woman meant that she should undertake full responsibility to mould the physical, moral and mental character of the new generation.' Even Mr Rajagopalachari believes that 'looking after home may be women's best career'.[30] These expressions are significant not only because they come from known and respected leaders but because they are in step with other developments whose social implications are not immediately apparent. These are the opening of home science departments in many of our new universities, a gradual increase in special colleges for female students, recent restrictions against the admission of married women in colleges and a reduction in the number of women employed in government offices and factories.[31] The contemporary situation is aptly summed up by the editor of the *Indian Social Reformer*: 'Everything that the Indian Republic has set as its ideal, points to giving women the freedom and opportunity to make a choice, according to individual feeling. The reactionary element is seeking to force the issue and has raised the slogan of the home, hoping to build on the prejudices of men. It is the thin end of the wedge and as such it should be rejected with force.'[32]

The rapid strides in higher education during the last twenty-five years have exercised their impact in two ways, first by creating conditions for a woman to be self-reliant and secondly by creating stronger emotional bonds between her and her husband. An educated young man is no longer satisfied with the prospect of a wife who can only be the acquiescent slave of his desires and the begetter of his children, but looks for intellectual co-operation and participation in the pleasures and joys of life. The educated wife is expected to be a companion who will share his interests, go with him to clubs and films, sports and parks, and thus be united emotionally with him. This new concept of wifehood, which is associated with urban living, has assigned to the wife a new status in the family, even if it be joint. In the traditional family a man was expected to be closer to his mother than to his wife. An interesting study by M. S. Gore,[33] of a community near Delhi whose traditional occupation is business, is evidence that this traditional expectation persists despite urban living and the disintegration of the joint-family. The proportion of 'deviants', i.e. those who say they are 'closer to their wife', is still small. The change from 'closer to mother' to 'closer to wife' is too radical and so the category 'equally close to both', which provides a convenient half-way house, has attracted many educated urban dwellers. In this survey the percentage of respondents 'closer to their mother' decreases only gradually as we pass from the rural (55 per cent) to the urban (47) dwellers. At the same time there is no corresponding increase in the percentage of respondents 'closer to the wife'. In fact, as against 29 per cent of such respondents in the rural area, there are only 15 per cent in the urban area. Such change as there is, is reflected in the category 'equally close to both' where we have 30 per cent in the urban area as against only 11 per cent in the rural area. Similarly, as we move from the least educated (non-literate and literate) to the graduates and professionals the percentage of 'equally close to both' increases from 9 to 32. Curiously enough, in both these groups about one-third of the respondents say they are 'closer to their wife'. Neither urban living nor higher education in itself has significantly affected the traditional values but together they have brought about a change inasmuch as the wife and the mother are equally loved. The most significant fact that Gore found was the following: It is among those urban, educated respondents who have taken to another occupation in preference to their traditional business that the percentage of those who say 'closer to wife' is fairly large (40 per cent). The percentage of those saying 'equally close to both' is also higher (33 per cent).[34] Nearly three-quarters of these highly urbanized are either wholly or partly deviant. It seems then that acceptance of the traditional occupation involves a close tie with the family and consequent acceptance of the traditional pattern. Breaking away from the traditional occupation leaves a man free to develop new bonds of emotional integration, and hence we see 73 per cent of such respondents coming nearer to the wife as against 57 per cent of those who follow the traditional business, though both these groups are highly educated and are mostly urbanized.

Another point that emerges from Gore's analysis is that the majority of the wives feel that they are closer to their husbands (57 per cent) or they are as close to them as are the latter's mothers (16 per cent). And this image of their husbands seems to vary with the educational level of the wives: 86 per cent of those who are matriculated or undergraduate believe that their husbands are closer to them while only three-fifths (61 per cent) among the less educated have this image.[35] This deviation from the traditional relationships between the husband and wife and between the mother and son has elevated the status of woman in the family; but at the same time the ideal of *pātivrātya* is still accepted by the wife as her cherished goal.

Education has brought women out of the confines of the house and put them into contact with the philosophy of liberalism and the democratic traditions of the West. It has deferred the age of marriage and enabled woman to exercise her choice in the selection of a partner. It has also brought about a new relationship between husband and wife. The Second World War provided new opportunities for educated women to leave home for office or factory with the acquiescence of family members and thus helped them to gain strength to assert their due place in home and society. The Constitution, which is the culmination of the struggle for freedom and equality in the country, provides that 'no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State'.[36] Coming as it did at a time when education and economic security had made Indian women bold and assertive, this new opportunity to strengthen their position was quickly grasped. The Constitution further provides that election to the House of the People and to the legislative assembly of every State shall be on the basis of adult suffrage, that is to say, every person who is a citizen of India and who is not less than twenty-one years of age is entitled to vote. The provincial legislatures from 1921 onwards conceded franchise to women on equal terms with men. In 1923 the Central Legislature granted women the right of vote only, postponing till 1931 their right to contest elections to the legislatures. When it came, this right had great theoretical significance, although in practice only a tiny minority of the female population exercised it. But with Independence this right became of practical significance. In the first election, 51 women contested seats in the House of the People and 216 contested seats in the State Assemblies; and 19 and 82 succeeded in being elected to these bodies respectively. Once in the legislatures, they found places in parliamentary committees, government delegations and embassies, according to their abilities. The scope of promotion to high office is also widened because the State is keen to implement the constitutional pledge that 'there shall be equality of opportunity for all its citizens in matters relating to employment or appointment to any office under the State'. Women have become ministers, deputy ministers and parliamentary secretaries; they have become governors and ambassadors; they have accepted and successfully carried out these responsibilities.[37]

Armed with economic and political rights, Indian womanhood is now on its march to equality and freedom, and educational attainment is assisting this process. However, although prospects on the horizon are indeed dazzling, one should not overlook in this brightness the more distressing shadows near at hand.

For example, suicide by females is on the increase. The Suicide Inquiry Committee which investigated 1,129 cases of suicide[38] in Saurashtra during the years 1952-5 found that cases of female suicide were double those of male. The annual ratios, women to men, were as follows: 2·1 : 1 (1952), 1·6 : 1 (1953), 2·2 : 1 (1954), 2·2 : 1 (1955). Further, of the female suicide cases, 60 per cent were between the ages of 13 to 30 (51 per cent in the age-group 19-30 and nearly 9·5 per cent in the age-group 13-18).

The ages of 14 per cent of the victims were not disclosed; but the percentage of total suicides (men and women) in the 19-30 age-group was about two and a half times as great as the percentage of men and women in this age-group in the Saurashtra population. The ratio of women to men committing suicide in this age-group was 3:1. Even in the age-group 13-18, where the percentage of total suicide was only 8 against the population percentage (in this age-group) of 19·5, the ratio of female to male suicides was 3·4:1.

According to this Saurashtra inquiry, the most common methods of female suicide are jumping into a well (63·5 per cent) and burning after sprinkling kerosene on the body (23·5 per cent). Two-thirds of the population of Saurashtra live in rural areas, where jumping into a well is possibly the most feasible way of ending one's life. To burn to death must be an agonizing torture. Some women are forced to end their lives in this way; but that others foresee the pain and yet resort to it indicates the desperation to which women can be driven in the Hindu family. The frustration which makes the young wife reckless reveals the tyranny of the husband and his kin and her own helplessness in the face of it.

When the causes of these female suicides in Saurashtra were analysed, 44·7 per cent were found to be the results of family tensions. (This was confirmed by personal investigation by the Committee of 110 cases which occurred during the course of its deliberations, family tensions causing 48 per cent.) A further 18 per cent of the cases were due to mental instability. Dr Jyotsna H. Shah, the Secretary and Convener of the Committee, wrote: 'There is reason to believe that to save the family from the ignominy of suicide, the cause of mental infirmity might have been put forward as a plausible cover in many cases. In cases where the attribution of mental instability is well founded, it may not be constitutional or hereditary but may be a likely result of long-standing mental torture and persecution.' The fact that family dissensions and maladjustments are at the root of so many cases of suicide in Saurashtra is confirmed by the evidence that the proportion of women committing suicide for this reason is eight times that of men. And almost 73 per cent of all the suicides took place in joint-families. This state of affairs has, to quote Dr Shah again, 'a compelling message for self-introspection and for a critical re-assessment of our domestic and social life, the customs and traditions which prevail in this domain and the relationship between man and woman'.[39] The situation depicted here is not peculiar to Saurashtra but is true for western India as a whole and probably for other parts of the country.

The husband can tyrannize the wife in various ways and for various reasons. If he does not like her, or if he is attached to someone else, he may force her to end her life to make way for a second marriage. Dowry and related customs provide a good handle to the husband and his kin for humiliating, depressing and even beating the woman. Oppression of the daughter-in-law by her husband's kin is frequent and can be extremely vexatious. It is to be noted that the parents of the woman who suffers from physical and mental torture seldom stand by her or save her from this persecution ; considerations of social prestige deter them from interfering in the exercise of rights conferred by the ideal of *pātivrātya*. And neighbours share the same view and outwardly show similar indifference, even when they feel privately a sincere sympathy for the woman. The public attitude results in a peculiar situation. The sympathetic attitude of friends and neighbours towards the suffering woman is expressed in critical remarks against her husband and his family during her lifetime ; but this mild social ostracism fails to bear any fruit and if her sufferings result in the woman's suicide their feeling is one of relief rather than recrimination against the offender. If one of the woman's relatives should want to prosecute the husband or his parents for causing such a tragedy, he will be persuaded and pressed in all possible ways to give up the idea. Stranger still is the fact that someone else will soon be ready to give his daughter in marriage to the offender. The enormity of the injustice done to women by the social ideal is well understood and lamented ; yet the force of tradition is so strong that the injustice finds no challengers. The re-emergence of *sati* in recent years, though the number may be small, has been made possible by this tacit acceptance of the ideal of *pātivrātya*. The way marriage is arranged today does nothing to loosen the hold of this ideal.

Women's organizations will have to be more alert and activ if the battle is to be fought successfully. Educational, economi and political rights having been guaranteed, the social *milieu* i conducive to the attainment of social equality. At the sam time the traditional ideal of *pātivrātya* is strong, and trends ar in evidence which work against the implementation of the idea of social justice and indirectly lend support to the traditional values. Women leaders do not appear to have yet realized the power and responsibility of their position and while loud in their claims of achievements are in fact complacent about the tough fight that is still ahead.

12

THE FAMILY IN AN URBAN SETTING

THE INDIAN VILLAGE USED TO BE ALMOST SELF-SUFFICIENT economically. The peasant supplied the basic need of food, and such craftsmen as smiths, carpenters, potters and weavers satisfied the various other needs of the village community. Barter in the commodities produced by the village workers, agricultural or industrial, was more or less restricted to the village. What little surplus that was left was traded with the people of other villages on a market day held in a big village near by. Contact with the outside world was limited owing to the self-sufficient character of the village and the poor means of transport and still poorer means of communication. The following description, by the Public Works Commissioners appointed by the Madras Government in 1852, of the best kind of road then existing may be applied to roads in all parts of India: '. . . nearly the whole of the made roads (so called) are only so far made as to be just practicable for carts. They admit of carts moving in dry weather with light loads at a very slow pace and by very short stages. But by far the greater portion of these roads are unbridged and a heavy shower cuts off the communications wherever the stream crosses a line: and they are in many cases so unfit to stand the effects of the wheels while the surface is wet, that in monsoon months they are out of use except for cattle or foot passengers.'[1] It was on occasions such as marriages that people left their own village and came into contact with other ones. Occasionally pilgrimages provided contact with a wider world. But barring these shifts the village folk lived in isolation, and consequently the characteristic feature of the Indian village community was the absence of any appreciable social or cultural exchange. This led, of necessity, to a somewhat myopic outlook.

Drought and flood frequently affected the village people, and these natural vagaries made them realize how helpless they were before the caprices of Nature. Insecurity faced them at every step, and this sense of helplessness bred in them a feeling of defeatism and frustration. The philosophy of *karma* which consoled them against the odds of life heightened this defeatism. Village conditions have in fact been an important factor in fossilizing Hindu culture and in perpetuating it in its stereotyped character over the centuries.

Caste has also been an important factor in stabilizing the cultural pattern. Village life was so organized that every caste had its proper place and duties. In order to maintain the equilibrium of social relationships a strict observance of this code of caste was expected. Any breach of it had inevitable repercussions on the life of the village. Conformity to caste was therefore essential, and was rigidly imposed. Each caste had its own moral standards and values to which its members had to conform ungrudgingly. Even the administrative policy of the British, although practically succeeding in breaking caste solidarity, failed to affect its cultural integrity or, therefore, its hold on the individual members. Any recalcitrant member was threatened with expulsion from his caste.

Caste performed certain services which were not performed by any other agency. A man was taken to the burning-ground and cremated only by the members of his own caste; marriage was a function wherein the members of the caste participated and made it a success.[2] An excommunicated member was deprived of these services and made to realize his helplessness when thrown out by the caste. He was considered an offender by the village community also. All services were refused to him and his very existence in the village was made most difficult, if not impossible.

The joint-family system has been the third potent factor in the continuance of cultural traditions. Family tradition was valued above everything, and the primary duty of the head of the family was to ensure that family traditions in all matters relating to life were perpetuated by their solemn observance, however meaningless they might begin to appear as conditions changed. The traditional authority of the head over the junior members of the family was so awe-inspiring that the juniors never thought of expressing their differences, whatever their convictions might be. The subordination and superordination designed to regulate the lives of the different members in the hierarchy of the joint household, recognition of the family as a unit for all social relationships, the place assigned to the family as a juridical unit in family quarrels—all tended to give the family such enormous influence that the individual lost his identity in it. The social environment never provided any opportunity to the individual to feel that he had interests apart from those of the family.

With the advent of the British, a transformation of the cultural pattern became inevitable by virtue of the new forces generated by them, administrative, ideological and economic. Capitalism in the economic field, liberalism in the ideological domain, and the principle of equality in the social and political systems became the order of the day. Liberalism attacked all privileges and disabilities based on birth, and hence the contract freely entered into by the individual became the juridical foundation of the new society. For it is in its challenge to authority that this democratic sentiment of liberalism finds expression. The individual is expected to accept a principle not 'because authority accepted it, but because its inherent validity secures for it the free consent of others'. Rationalism is the second principle of liberalism. Institutions and traditions are valid only when they are acceptable to Reason. There is nothing sacrosanct about them and they can be repudiated and discarded when they fail to stand this test. J. V. Morley expresses this more picturesquely: 'That contented acquiescence that has come down to us from the past is selfish and anti-social, because amid the ceaseless change that is inevitable in a growing organism, the institutions of the past demand progressive readaptations.'[3] The essence of this new philosophy 'is thus, in a real sense, the emancipation of the individual'. Respect for the individual became the slogan of the new era which catered for personal opinion, personal initiative and personal assertion. This philosophy gave rise to a concept of rights, and the struggle for these rights—rights to personal liberty, social liberty, economic, domestic and political liberty—has been the most outstanding feature of world history from the late eighteenth century onwards.[4]

The British brought with them this new ideology in pursuance of which they administered a uniform criminal code for the whole of India. Cases of assault, adultery, rape and the like were now decided by the British courts instead of by the caste panchayats. But so far as civil law was concerned, and personal law in particular, people were still governed by their own law and usage. The British judges who were called upon to administer justice were not acquainted with the law of the land and did not understand the language (Sanskrit) in which the personal law of the Hindus was written. They had to rely upon the translations of competent Western scholars and the interpretations of the pandits for acquaintance with this law. The pandits, brought up in orthodox traditions, failed to see, to the extent we do now, that the positive law was changing and varied from place to place despite the fact that the Vedas were looked upon as the primordial source of law. They could not see that the Smṛtis, commentators and writers of the digests demonstrated a continuous process of growth and development of Hindu law. And yet it must be said to their credit that they exercised all their intelligence in arriving at proper decisions, and only after a thorough examination of all the relevant texts on the disputed point had been made. In spite of the limitations imposed upon them by the very method of their study, they knew the Hindu traditions and they interpreted the cases brought before them in the light of these traditions. But after 1868, the texts as interpreted by the pandits were dispensed with and the English translations took their place. The Western scholars who translated these works were not acquainted with Hindu traditions nor could they understand the Hindu life depicted in the sacred literature. The Hindu law that determined the decisions of the learned judges was not, therefore, always the law that was in keeping with Hindu traditions, but was the law as it appeared in cold print. Further, the Privy Council laid down that 'the duty of a judge was not so much to inquire whether a disputed doctrine is fairly deducible from the earliest authority, as to ascertain whether it has been received by the particular school which governs the District with which he has to deal, and has there been sanctioned by usage'. 'The limitation which the Privy Council imposed upon the courts administering Hindu Law, however proper and inevitable it may have been, led to the somewhat unfortunate result that the development of Hindu Law was arrested, because in applying that principle in courts "no voices were heard unless they came from the tomb".'[5]

At the advent of the British, the family organization of the Hindus was, as described in Chapter 10, undergoing profound modification with the bilateral recognition of kinship. The British courts, instead of trying to understand this process of transformation of the Hindu family organization, accepted Vijñāneśvara and Jīmūtavāhana as the representatives of it. Here again, instead of examining the points of correspondence and the contrasts between the systems of Vijñāneśvara and Jīmūtavāhana and the reasons for these contrasts, the courts accepted the theories with the help of which both jurists had tried to explain the law with the additional changes they had introduced to bring the old law into harmony with the then existing conditions.[6] As the two jurists had approached their tasks with different principles of interpretation, the British courts brought into existence two schools of Hindu law, the Dāyabhāga school governing Bengal and the Mitākṣarā school governing the rest of the country. This approach on the part of the British judiciary had very significant drawbacks. First, for nineteenth-century conditions they were accepting the law as it was expounded in the eleventh and twelfth centuries, ignoring thereby the momentous development of the law in the writings of Nanda Pandit, Nīlakaṇṭha and Bālaṁbhaṭṭa. And second, by accepting Vijñāneśvara and Jīmūtavāhana as the expounders of the personal law of the Hindus, the natural evolution of Hindu law over centuries was ignored; for instead of recognizing its essentially dynamic character they accepted it as a stereotyped system based on a particular principle Lawyers and judges well versed in the legal system of the West were eloquent in hair-splitting over the interpretation of the texts of these two eminent lawgivers. In a sense, therefore, the growth of the Hindu law was arrested as the digest writers ceased to shape it in conformity with the changing conditions. But it was not completely fossilized as the application of legal maxims made it yield new meanings which were in sharp contrast to the spirit of the writers of the Smṛtis and commentaries.

Another outstanding factor impinging on the family particularly during the present century, is the growth of cities. Whereas the general increase in population during the first fifty years of this century was 51·9 per cent, it was 129·6 per cent in the urban areas. This urban increase is not only two and a half times as large as the general increase but is three times that of the rural population (41·8 per cent). The urban component and its rate of change increased progressively after 1921, the differential rates of population growth being:

Years	General rise %	Rural %	Urban %	Rural : Urban
1921-31 ...	11·0	10·1	18·4	1 : 1·8
1931-41 ...	14·3	12·0	31·1	1 : 2·6
1941-51 ...	13·4	8·9	41·2	1 : 4·6
1951-61 ...	21·5	22·0	26·2*	1 : 1·2

*Owing to the adoption in the 1961 Census of fresh definitions of urban areas, this figure is not strictly comparable with that for 1951. Because of the new definitions, the number of towns and cities (3,057 in 1951) was only 2,690 in 1961. (See Census Paper I of 1962, p. xxxv.) And yet there was an increase of nearly 17 millions in the urban population.

In the development of the urban sector the cities have generally grown more than the towns, the comparative rates of increase being[7]:

Years	No. of towns	Town population (in millions)	Percentage increase	No. of cities	City population (in millions)	Percentage increase
1921-31 ...	2,229	26	23·8	32	8	14·3
1931-41 ...	2,378	31	19·2	49	14	75·0
1941-51 ...	2,983	38	22·6	74	24	71·4
1951-61† ...	2,583	44	15·8	107	35	45·9

† See footnote to previous table.

Much of this cityward migration in the decade 1951-61 is the result of the spread of education, as only the city can provide enough employment for the educated, a livelihood for prefessional people and a reasonable wage for semi-literates. Many of the immigrants who settle down in the city start their own households there. These households have the appearance of nuclear families even though a majority of them also retain varying degrees of loyalty to the natal family.

The impact of these various forces on the joint-family is as significant as their impact on caste ; but it can be defined precisely only after a close study of changes effected in the structure of, and relationships within, the family. There is a widely expressed opinion, held not only by laymen and Government authorities but by sociologists as well, that joint-families are fast dying out. Mr J. B. Bowman in his *Digest of the Census Report for Bombay, Saurashtra and Kutch* (1951) has said: 'The old-style joint-family in the sense of numerous families living together is much rarer than is commonly supposed.' The Census Commissioner (1951) also has observed: 'Such a large proportion of small households (33 per cent in villages and 38 per cent in towns) is a *prima facie* indication that families do not continue to be "joint" according to the traditional custom of the country and the habit of breaking away from the joint-family and setting up separate households is quite strong.' It is indeed true that the old-style joint-family, though not in the sense in which Bowman has understood it, is now rare. Bowman's assessment of the joint-family is misconceived, as I. P. Desai rightly points out, because he failed to assess the significance of the relationship of the dependants in the family to its head. Similarly, equating residential units with one or another type of family, as is done in the Census, places undue emphasis on co-residence and a common kitchen as dimensions of jointness, and fails to recognize the joint-family as a set of relationships and a functioning unit.[8] In the absence of studies of the Hindu family in this perspective of the joint-family, it becomes a difficult task to prognosticate on the future of the family. An attempt may however be made, on the basis of the material available, to analyse the structural changes in the family.

We may take as our starting-point the inquiry conducted by K. T. Merchant in the years 1930-2 among college students. The replies to his questionnaire indicate changing views on marriage and family. Merchant analysed the family types, and the students' opinions in respect of them, on a sample of 445 students all of whom were younger than 35. In this sample 343 were undergraduate male students (A group), 40 were matriculate or non-matriculate males (B group). and 62 were girls (these were not grouped with reference to their educational qualifications).[9] Of the men, 236 in A group and 24 in B group lived in joint-families; and 107 in A group and 16 in B group lived in nuclear families. Of the girls, 17 lived in joint-families and 45 in individual families. Thus, five-eighths of all the students lived in joint-families, and three-eighths in nuclear ones, i.e. for every three students living in nuclear families there were five living in joint-families. In a sample of the older generation (above 35 years of age), 60 per cent of the respondents (59 persons) lived in joint-families and 40 per cent (39 persons) in nuclear families.[10] But in this sample 14 per cent of the respondents (16 persons) did not indicate the type of family they lived in and to that extent any conclusions drawn will be inexact. One can say, though, that the joint-family was not significantly affected by urbanization during the early years of this century.

An important fact in our assessment of the strength of the joint-family which should not be lost sight of is that a family unit which appears to be nuclear is not in fact so, as on closer investigation it may turn out to be part of a joint-family. This is more likely when the survey is confined to college students living in towns and cities which are centres of higher education. The component of the joint-family should therefore be taken to be somewhat larger than is given here by statistical analysis. Another pertinent fact in analysing the strength of the joint-family is, as pointed out by I. P. Desai, that the statistics must take cognizance of persons living in a particular type of family rather than of the households or residential units themselves. The former factor is the clearer indicator of the influence of the family as a group on the individual. This difference in the basis of computation can be very significant when measuring the preponderance of one type of family over the other. By way of illustration, the 1951 Census records indicate that the percentage of large and very large households in western India is 24, but calculated in terms of persons 40 per cent of the population in the area live in such big units. When these considerations are taken into account, the component of the joint-family will be found to be larger than on a statistical basis.

Though a large number of students may be living in joint-families it can happen that a majority of them do not like doing so. The vitality of the joint-family can be assessed in this context only—how many persons now living jointly will continue to do so. In Merchant's inquiry, of the 277 students living in joint-families 118 preferred to live that way; 102 would have liked to have nuclear families; 44 preferred neither as a type but wanted to have something of both; 13 did not answer the question. Of the 264 students who did answer the question, 44·7 per cent were in favour of the joint-family; one-sixth of them had not decided against it though they did not definitely favour it. Those voting against the joint-family were about 40 per cent. But before this is accepted as a contemporary trend one fact needs attention. Among the girl students living in joint-families only 2 favoured the joint-family and 12 were against it. This is doubtless due to the general pattern of relationship between a wife and her elderly relatives in the Hindu family. The relations between a wife and her mother-in-law and sister-in-law are not usually cordial. N only has the woman to put up with indignities arising from th inimical relationship but her life with her husband becom strained by the impact of an unfriendly, and at times eve hostile, attitude of her elders. Women also often find th family atmosphere suffocating on account of inhibitions i duced by conventional etiquette surrounding sex and ag It was the knowledge of these emotional stresses and strains tha provoked the girl students to express discontent against th joint-family. Merchant observed that '75 per cent of the lad respondents are against the joint-family system'; and this le him to prognosticate that when they marry 'they will insist o separate families and refuse to stay in the joint-families. Th result is that henceforth the joint-family system will fa disappear yielding place to the separate family system.' Merchant arrived at this inaccurate forecast probably because h read too much into the outbursts of new entrants to the unive sity, who being strongly agitated by the new air they breathe there inveighed against the traditional place of the woman i the joint-family. He also failed to note another important fac although he alludes to it in assessing the protest of his femal respondents. Sixteen of the seventeen girls who lived in join families lived jointly with uncles. The significance of this li in the fact that 43 per cent of those of his students who live jointly with their uncles resented the joint-family as agains 32·7 per cent of those who lived jointly with their brothers. Another pertinent fact is what we have observed before, tha those who live in separate, nuclear families do not necessaril favour that type of family but would like to be members of joint-family. Merchant found that 35·77 per cent of those mal students who lived in separate families favoured joint-famili —the percentage is a little less than 30 if the girl students a included—and that 14·6 per cent were for the mixed family.

In the older generation sampled by Merchant, about 50 pe cent (49·12) of those who lived in joint-families favoured join living and about 25 per cent (24·56) preferred mixed familie Though the proportion of this age-group in favour of a nucle family is not as great as among the youngsters, a definit tendency against the joint-family has been in evidence since th beginning of this century. The generation which Merchant contacted was against the traditional family including collaterals within three or four generations, although it was not against the joint-family as such. And with the years opinion in favour of the joint-family (which has declined from 49·12 to 44·1 per cent) has not been affected as much as opinion in favour of the mixed family (where the percentage has declined from 24·56 to 15·88 per cent). In view of the fact that more or less the same number of people now live in different types of families, this trend towards nuclear families in the younger generation indicates that the traditional joint-family* becomes more and more unpalatable as the years go by.

About twenty years after Merchant's inquiry another inquiry was carried out by the present author to assess the opinions of graduate teachers on the changing pattern of marriage and family in the light of impending Hindu law. These twenty years had seen the Second World War, the social and economic implications of which were bound, it was thought, to have repercussions on the Hindu family. In spite of changed conditions, it was found, however, that of the 513 graduates interviewed, 57·3 per cent lived in joint-families, and of these 86 per cent believed that it was a good arrangement and 83·3 per cent desired to continue their joint living. Against this, only 11·9 per cent opposed the idea of continuing their joint living and 9·1 per cent did not consider the joint-family to be a good arrangement. This suggests that nearly three-fifths of educated Hindus still live in joint-families and only about one-eighth of them are dissatisfied with that form of living. Even among those who do not for the present live in a joint-family for one reason or another, there is a fairly large section willing to do so. For a proper perspective of the contemporary attitude towards the joint-family the opinion of such persons has to be taken into consideration. Taking the opinion of those who favour the joint-family and of those who avowedly oppose it, irrespective of the type of family in which they at present live, the general trend among educated Hindus appears to be that while over three-fifths (61·4 per cent) stand for the joint-family, less than one-fifth (18 per cent) oppose it. Thus for every one person opposing the joint-family there are 3·4 favouring it.[13]

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* The traditional joint-family means the family of which the constituent members are lineal descendants as well as collaterals within three, and at times even four, degrees of relationship.

The results of these two inquiries suggest that the number of graduates living in a joint-family has declined by about 5 per cent in the last twenty years ; but the desire to live jointly has doubled, while the number of those opposing has declined to about 30 per cent.

In a survey of Poona conducted in 1937 by the Gokhale Institute of Politics and Economics the family composition of 3,849 households was recorded. Of these 250 were Gujarati and 24 were Sindhi households. The remaining 3,575 households will now be examined to show the types of family prevalent in Poona then. In the survey the households were grouped into twelve categories, which in the table below have been reduced to four.

Households in Poona

	Survey categories	Members	Type of family
1	1, 9, 2	Male head only ; female head only ; husband, wife, child	Nuclear
2 (a)	10	Husband, wife, married and unmarried children	Marginal joint
(b)	3	Husband, wife, married children and their families	Joint (A)
(c)	4, 11, 5, 6	Propositus, brothers (married and unmarried) ; parents ; husband's relations ; No. 4 with other patrilineal relatives ; No. 4 with maternal relatives	Joint (B)
3	7, 12	Nuclear with wife's relatives; woman and her parents	Nuclear with affinal relations*
4	8, 13	Relations ; miscellaneous	Miscellaneous

* These being neither strictly nuclear nor joint-family (in the sense in which Hindu families are called joint-families) may be referred to as extended families in this discussion which is mainly concerned with the assessment of the survival of the Hindu joint-family.

Caste	Types of family			Types of nuclear family	
	Nuclear %	Nuclear with affinal %	Joint %	Uni-member family (1, 9) %	Other nuclear families %
Brahmins ...	48·16	3·66	46·82	15·77	32·39
Marathas ...	59·26	3·31	36·92	12·91	46·35
Artisans ...	55·12	3·68	41·18	7·58	47·54
Other Hindus ...	60·03	2·39	37·12	17·36	42·67
Depressed classes	54·19	2·79	43·00	9·92	44·27
ALL CASTES ...	55·74	3·21	40·47	13·34	42·40

The number of nuclear families in Poona is much higher than that of joint-families. In this assessment of the prevalent types two facts must not be lost sight of. A fairly large number of households are uni-member families. The survey embraces students who have come to Poona for college education and also persons in search of employment. These are inaccurately described and recorded as nuclear family units, whereas in fact they are members of a joint-family living elsewhere. The percentage of such families is as high as 13·34, i.e. nearly 24 per cent of the nuclear families. Secondly, the type of family reflects caste alignments. Joint-living is fairly prevalent amongst the Brahmins, and least so amongst the Marathas and other Hindus. Merchant in his survey found 48 students in Poona living in joint-families and 25 in nuclear families. He also found that 28 favoured joint-living, as against 33 opposing it and 10 opting for mixed families. The disparity between Merchant's record and the result of the Gokhale Institute Survey probably arises from the two facts referred to above. When Poona was resurveyed in 1954 it was found that the proportion of nuclear families had declined to 51·22 per cent while the proportion of joint-families had risen to 43·93 per cent. The percentage of uni-member families and nuclear families with affinal relatives was 11·06 and 9·91 respectively. An equally pertinent fact is that the percentage of joint-families among all castes except the Brahmins had increased by 4 to 6 per cent:

Marathas 42·47, artisans 45·85, other Hindus 43·42, depressed classes 48·94. It is only among the Brahmins that the percentage was reduced, to 42·58, raising the percentage of nuclear families to 52·68 and of nuclear families with affinal relatives to 3·72. The percentage of uni-member families among the Brahmins also was reduced, to 11·3. An increase in the number of Brahmin nuclear families is therefore apparent.[14] Looking at the whole picture, however, it can be seen that joint-families have proliferated during these seventeen years. This suggests that neither the Second World War nor the rapid rise in urban population resulting from the beginnings of industrialization have proved to be as decisive a force for the break-up of the joint-family as they have been generally assumed to be.

In Gujarat we meet with a similar situation. Let us analyse a few studies that are now available, beginning with I. P. Desai's study of 410 households in the town of Mahuwa in Saurashtra.[15] Mahuwa is a marketing centre for more than a hundred villages around it. It has a small cotton-spinning mill employing about a thousand persons and also some oil mills employing about the same number. There are about three hundred flower and vegetable gardens upon which quite a large number of people are dependent for their livelihood, and the town was once a very active port.

For purposes of his investigation Desai defines the nuclear family as a family of which the members are 'not related to their other kin through or by property or income or the rights and obligations pertaining to them, as are expected of those related by kinship'. The joint-family, on the other hand, is that household 'which has greater generation depth (i.e. three or more) than the nuclear family and the members of which are related to one another by property, income and mutual rights and obligations'. In between these two stand (i) 'a household which is a nuclear family in composition, but which is related to another nuclear or joint-family in all or some of those respects in which the members of a joint-family are usually related', and (ii) a household the members of which are related 'by other rights and obligations to another nuclear, or joint-family with which ties of kinship obtain'. These he calls Type III and Type II respectively. The joint-family he calls Type V and the nuclear family he calls Type I. A household consisting of either or both parents living with married sons (with or without children), and having property and income in common he distinguishes as a marginal joint-family. Type IV.*

He presents his data in two tables; one showing the relationships of the residentially nuclear families of Types II, III and IV with other households with whom ties of kinship obtain, and the other giving the composition of the household in terms of the relationship which the members of the household bear to the head. Modified versions of his two tables are presented below:

Residentially nuclear families joined functionally (II) and substantively (III and IV) with	No. of families II	III	IV	No. of persons II	III	IV
Father or married son ...	4	26	32	21	116	218
Unmarried or married brothers ...	12	41	—	64	223	—
Unmarried or married father's brothers and their children ...	4	7	—	21	36	—
Brothers' children or sisters' children	2	1	—	2	2	—
Sons-in-law	3	—	—	10	—	—
TOTAL ...	25	75	32	118	377	218

There are 653 persons (22·8 per cent of the total number of persons covered by the survey) living in 116 nuclear families of Type I, and 1,496 persons (52·2 per cent) in 162 joint-families of Type V (with a few added from Type IV). The remaining 132 families (713 persons) though residentially nuclear are not really so, except perhaps the three families which are functionally joined with sons-in-law. Of the others, 22 have functional ties and 107 have more intimate ties with other nuclear or joint-families. Among them, 26 (in Type III) 'have jointness in property and income even though they are residentially separate'. In essence, these 26 are joint and not nuclear families. The 129 families cannot therefore be said to be nuclear only on the basis of residence, though they may be differentiated from the 162 joint-families. The incidence of joint-families is thus obviously much higher than what is indicated by residential computation. Residentially we have put down 1,496 persons as living in joint-families. If to this were added 116 persons living in the 26 families of Type III referred to above, the total component of the joint-family (personwise) would be 1,612 (56·3 per cent). Others even when they are not strictly speaking joint cannot be clearly demarcated as nuclear. It would not be wrong to say, then, that for every 1 person living in a nuclear family 3 live jointly. The compositional structure of the household given by Desai and presented below for our purpose in more meaningful terms also indicates how erroneous it is to take residential units as the basis of nuclearity.

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* But in the analysis that follows, a family which includes married sons with their children is counted in Type V, increasing Desai's total of 133 joint-families to 162.

Compositional structure of the households	Types of families					Total
	I	II	III	IV	V	
Husband, wife and unmarried children	106	22	70	3	1	202
Husband, wife and married children	2	—	1	25	27	55
Relatives within three generations in ascent and descent* ...	4	2	3	—	120	129
Relatives within four generations in ascent and descent† ...	—	—	—	—	5	5
Daughters' children and mother's parents	2	1	—	1	2	6
Sisters' children and mother's brother or sister	2	—	1	2	5	10
Mother's brothers' children, mother's sisters' children, sisters' children's children	—	—	—	1	—	1
Wife's brother or sister ...	—	—	—	—	2	2
TOTAL ...	116	25	75	32	162	410

* Father's parent(s), uncles with their wives, son's children, brothers with their wives with or without children, unmarried or widowed daughters, sisters or father's sisters.

†Grandfather's brothers or sisters, uncle's children, brother's grandchildren. Grandson's children, who belong to this category, are inadvertently included in the previous category by Desai.

Desai concludes: 'If we take the residentially nuclear group as the nuclear family, nearly 53 per cent families are nuclear families.' Nearly 63 per cent of the households are composed of the husband-wife-children group. 'We can thus say that the husband-wife-and-children group is predominant in the residential and compositional pattern of the families. We are tempted to say that nuclearity is increasing and jointness is decreasing.' However, 47 per cent of such families 'are actively joint with other households in the same town or outside it'. Therefore, by our definition the number of nuclear households is far less than suggested by the Census, particularly if we also take into account modes of living.

Another fact to which Desai's analysis draws attention is helpful in comprehending the true nature and spirit of the joint-family in this country and in predicting its future: 'There are 47 per cent of the households in which the married sons or brothers are staying together; and in the other 18 per cent of the households where they are living separately they do so not because of their marriage but because of occupational and economic exigencies. They still continue to be joint in property and income. In view of these facts, how far are we correct in assuming the growth of the spirit of individualism?'

Navsari[16] in south Gujarat is another partly industrialized town. It has two textile mills employing 4,235 persons, a metal works, two bobbin factories, two sawmills, and about twenty-five other industrial concerns. Also it is a big marketing centre for more than 150 surrounding villages which are connected with the town by a network of bus transport. In an analysis by the present author, 246 families from the town and 1,099 from fifteen villages (five within a range of from 1 to 3 miles, seven within 4 to 9 and three within 10 to 13 miles) were studied. This was a random sampling of family types and was based on the data of the 1951 Census as recorded in the National Registers. The five villages nearest to the town are separately classified as 'impact villages', on the assumption that the impact of the town is greater on those villages. When the data is presented in terms of caste we find the two main types of family distributed as follows:

Castes	Town		Rural (15 villages)		Impact Villages	
	Joint %	Nuclear %	Joint %	Nuclear %	Joint %	Nuclear %
Patidars, Brahmins, Banias*	60·87	39·13	60·43	39·57	63·50	36·50
-do- + Kolis†	54·43	45·57	59·10	40·90	49·60	50·40
Artisans	52·81	47·19	54·43	45·57	53·63	46·37
ALL CASTES	56·50	43·50	49·70	50·30	49·50	50·50

* Mainly agricultural castes.
† Kolis, though agriculturists, are also engaged in other occupations.

At first sight it seems paradoxical that the number of joint-families is greater in the urban area than in the rural area; but then we see the family patterns in groups of castes. The agricultural castes, whether in the town or in the village, are predominantly joint-family. The pattern among the artisan castes is much the same; the slight difference that we notice is probably due to the fact that potters among the rural artisan castes own land and cultivate it. The marked difference among the Kolis may be because Kolis in the town are not so attached to the land as are the rural Kolis. It does not follow, however, that joint-family living is concomitant with an agricultural community, because that would fail to explain its preponderance in the urban setting. There is also the fact that a large number of Kolis and artisan castes from the villages are employed in mills and factories in Navsari.

Ramnik Chudasama conducted an opinion-survey of 113 teachers in secondary schools in Rajkot, the chief town in Saurashtra, in 1961-2. He found[17] that 69 per cent of them lived in joint-families and 31 per cent in nuclear families. Though living separately only 9 per cent of the latter had severed their links with the joint-family; 91 per cent held property in common. Even among those who were separated in property, 40 per cent had no property to share. The earning members kept their income to themselves and managed their families: they did not pool their income. The proportion of joint-families varied from 63 per cent in the younger generation of teachers (between 24 and 35 years of age) to 70 per cent (between 36 and 45) to 81 per cent among the older teachers (46 and beyond). In the last two age-groups nuclear families were formed from force of circumstances; the members themselves were not particularly in favour of individual families. The exigencies of employment were the main cause; in a few cases insufficiency of space. Among the older teachers no one was completely dissatisfied with the joint-family system, and only about one-fifth of them (18 per cent) were partially dissatisfied; in the middle age-group the percentages were 36 and 28 and in the younger generation 55 and 18 respectively. Of those who lived in joint-families 42 per cent were satisfied with the system; 22 per cent were partially dissatisfied and 36 per cent opposed it. Among the reasons given for dissatisfaction were: conflict of interest, behaviour, habits, or temperament (53 per cent); lack of expected comforts (36 per cent); not consulted about decisions taken in the family (31 per cent); quarrels among women and children (20 per cent). Elsewhere 16 per cent have referred to pressure from the wife as the reason for separation from the joint-family. It is particularly evident that the younger generation finds stresses in the old family system and is consequently prone to break away from it. Of the 69 per cent of the teachers living in joint-families, only 27 per cent liked joint-living. A further 21 per cent desired to live in a modified form of joint-family. In answer to a separate question, 44·24 per cent of these teachers said that they had never thought of living separately.

Although the younger generation often complains of the suffocating atmosphere of the joint-family, at the same time it appears to be conscious of certain benefits derived from joint-living: economic help, refuge in many crisis-situations, proper upbringing of young children, restraining influence on clashes between husband and wife. In short, the joint-family is still capable of meeting certain needs of its members. One finds that because of this many people are not prepared psychologically to break away from the joint-family. Such dissatisfaction as exists is not so much against the system itself as against the atmosphere generated by the behaviour-pattern of certain members of the family. What is needed is compromise and adjustment; and, as we shall see in the next chapter, such adjustments are being made.

As stated earlier, all those who live in joint-families have common family property in which the incomes of all members earning are pooled. This is from realization of the fact that separate holdings would disrupt the emotional and psychological bonds conducive to the success of joint-living. Common holding also helps to meet big social liabilities with comparative ease. Nevertheless, many of the younger generation feel that they should have freedom to spend independently for their wives and children; they must get the money they need; they resent accounting for all expenditure incurred by them. Consequently they think in terms of individual contributions to the family budget as being more satisfactory than the traditional concept of family property. This growing individualism has adverse effects on those who are still family-minded. 'Some members pass on to the family fund expenses which are evidently of a personal nature.' 'Family budget being common, purchases are not made economically'; consequently 'our economic burden is greater than our needs'. Luxuries apart, necessities such as clothes, medicine and education are nowadays big items of family expenditure, not only because of their high cost but because more young people desire them. Whereas the older generation considered such items as a sort of appendage to the main routine of life, the younger generation regards them as necessities. This clash of viewpoints led 29 per cent of the teachers interviewed by Chudasama to earmark expenses on clothes as personal expenses; 35 per cent regarded expenditure on medicine in the same way, and 48 per cent had the same attitude to education. There is thus clear evidence of a new system of contribution in place of the traditional common pool. This, of course, is not to say that the joint-family is disintegrating. Indeed Chudasama sums up the contrary opinion in his review of the total situation: 'The relations which the persons living in nuclear families have maintained with the other members of their old joint-family reveal the jointness of the family. Sometimes these nuclear families behave in all respects as branches of the (old) joint-families.'

In 1958 B. V. Shah conducted an opinion-survey of 200 first-year students in the M. S. University of Baroda. His findings[18] were that 39·5 per cent of them favoured the joint-family and only 16 per cent were fully opposed to it. Others—a large proportion (44·5 per cent)—although not against the joint-family wanted some changes in personal relationships within it. 'A very large majority of students are genuinely interested in their family and have a strong sense of duty towards its members. . . . 87 per cent of the students take interest in their household, economic and social family matters, of which 15 per cent have interest in "all family matters" and 72 per cent in "some of them". Besides, out of 105 students who are in a hurry for settlement in occupation immediately after graduation as many as 79 have family considerations in mind. They "want to help the family soon" or "wish to give a chance to their brothers to educate". . . . A very large majority (90 per cent) [of all the students] desire to live jointly with the parents after their marriage, even if economically separate families are maintainable. . . . Out of 180 who would like to live jointly with the parents, 126 would interfere in [their] younger brothers' choice to live separately.' Shah concludes: '63 per cent of the students show readiness to live jointly with parents even if economically separate families are maintainable and would interfere in younger brothers' choice to live separately from them. 27 per cent, eager to stay with their parents, would not interfere in younger brothers' choice to live separately and as such they are partially deviated. Thus only 10 per cent are fully deviated or separate-family minded.'—That is, only 10 per cent would live separately from their parents if separate establishments were economically viable, and would have no wish to interfere with any younger brothers desiring to separate.

There is other evidence in Shah's survey of the dependence of students on the joint-family. Although working in a city would afford them a chance of living separately from their families, a majority of them would be willing to take their parents with them after they are settled in the place of their employment. In selecting a town or city for employment 52·5 per cent would look to 'nearness to parents and/or relatives' and 18 per cent to 'better educational facilities for younger brothers and sisters'. 'A large number of students would settle as near about their family place as possible as they desire to keep close relations with the parental family, like to meet the family often and wish to look after their parents and help them and be helped by them when needed.' They wish to be able to 'easily get and send all information regarding health and other conditions and happenings . . . visit the parental family often in short holidays and almost always in long ones'. Only 3 per cent of the students 'wish to be away from parents and family'. Similarly, although marriage is now considered an individual affair[19] and a person's choice of spouse is admitted to be necessary by the elders, yet 'though a very large majority of students would select their bride on the basis of her individual qualities and their own individual needs, they would give an almost equal importance to the bride's membership of a particular group or family and to her adjustability to their family and its environment'. Many expressed such hopes as: '"My bride must be such as would behave well with my parents and other members of my family and would not quarrel with them; . . . would be tolerant enough to bear the vagaries of the nature and temperament of the elders; . . . would listen to and obey them without raising her voice against them; . . . would show due respect to them." "She should be tolerant and co-operative in the family; . . . she should so behave herself as to satisfy the parents and win their hearts; . . . she should not have any dislike for their (*sic*) family members and should have genuine feelings for them." "She should be on the whole adjustable to the family, family members and its way of living and environment." "She should be ready and willing to live in the joint-family."' And the partially deviated—those who select for family as well as individual considerations, whether they select a bride jointly with parents or by themselves—constitute 91·5 per cent of the students of Shah's analysis. 'Even among those 32·5 per cent who would select it [the bride] themselves only, we find 29·5 per cent selecting for mixed considerations, whereas only 3 per cent would select for only individual considerations.'

In Shah's survey 67 per cent of those who come from families low in the educational scale and 63 per cent of those who come from highly educated families are joint-family minded. Further, 69 per cent of those whose families are in the lowest economic group (less than Rs 400 *per capita* annual income), 62 per cent of those in the income-group Rs 1,041–1,680 and 76 per cent of those with very high incomes are joint-family minded. But in the medium income-group (Rs 401–1,040) we find nearly one-sixth (15·73 per cent) of the students fully deviated. If we scale this deviation on the basis of caste, however, we find that 73 per cent of the Patidars are joint-family minded and 21 per cent are partially deviated. Among the Brahmins these percentages are 54 and 31, giving a large percentage (15) of fully deviated. The Banias stand midway between the two. The over-all percentage for the joint-family minded is 63 and that for the partially deviated 27. '23 out of 52 Patidars in our inquiry follow agriculture whereas among 48 Brahmins and 75 Banias we have only 7 and 3 agriculturists respectively. In education also we find that nearly half the Patidar families have a low educational level and reside in villages whereas a very large majority of Brahmin and Bania families have a medium or high educational level and reside in towns and cities.' The reason for this is probably that the fathers of a majority of the Brahmin and Bania students 'belong to the impersonally employed group which comprises largely employees in Government and semi-Government agencies, limited companies and educational institutions'. Thus it is evident that the joint-family is much more favoured among the agricultural castes, and that with the increase of higher education and consequent settlement in towns and cities for salaried work there will be a greater demand for such adjustment in relationships within the family as will provide all the members with more freedom to discuss family matters and contribute to all decisions affecting the male and female juniors of it.

We shall now examine three investigations of family life in Gujarat carried out in 1960. A. S. Patel studied the composition of families of 580 students in secondary schools in Kaira district and B. G. Desai 540 students in Baroda district. At about the same time Vimal P. Shah[20] contacted 300 post-graduate students in Ahmedabad to study their attitudes towards marriage and family. The results of these inquiries may be tabulated as under:

Area of inquiry	Nuclear families		Joint-families		Nuclear families		Joint-families	
	Rural	Urban	Rural	Urban	Rural %	Urban %	Rural %	Urban %
Kaira district	103	134	140	203	42·40	39·70	57·60	60·30
Baroda district	30	144	110	256	21·43	36·00	78·57	64·00
Ahmedabad	32	63	98*	97*	24·61	39·37	75·39	60·63
Total	165	341	348	556	32·16	38·01	67·84	61·99

* In Shah's survey 10 persons from joint-families did not indicate whether they lived in rural or urban areas and are omitted from this table.

The proportion of nuclear families in urban areas other than in Kaira district is much higher than in the rural areas. At the same time not less than three-fifths of the households are joint even in the urban area. The urban character of the towns** in Kaira district is quite different from that of the city of Baroda† which again differs considerably from the city of Ahmedabad. And yet while the percentage of joint-families in the city of Baroda is 64 it is 60 in the towns in Kaira district, which is also the percentage found in the city of Ahmedabad. The joint-family cannot be said to be affected

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** 40 per cent (135) of the urban students live in big towns and 60 per cent (202) in small towns.

† 62·5 per cent (250) of the urban students live in the city and 37·5 per cent (150) in towns.

significantly by the degree of urbanization. This is borne out by another fact, namely that nuclear families even in the rural area in Kaira district are as many as 42 per cent ; and they are the mainstay of the Patidars, the main agricultural caste in Gujarat. But many Patidars from this area have gone abroad and are prosperous. Nuclearity is probably due to the preference of such people for their own independent household, even when they maintain cordial relations with the parent household or other branches of it. The treatment of the family being very sketchy in these studies, one has to be satisfied with this inadequate analysis.

The Economic Survey of Greater Bombay carried out by the University School of Economics and Sociology, Bombay, in 1957[21] analysed the patterns of 13,369 families under generation groups as well as marriage groups and gives a good picture of the structure of the family. But these categories, like the Poona categories, have to be re-arranged to make the types listed in them comparable to the types we have accepted for our discussion. The Survey covers households of several different communities, the Hindu being about three-fourths (9,988) of all the households surveyed. In the Survey, Table III (30) presents households under different categories and III (35) presents these categories in relation to the community. With the help of these tables, the table on page 298, presenting the different types of family in the city of Bombay, has been prepared. Some slight inaccuracies are bound to occur, the data in the tables in the Survey being in an entirely different form from that required for our analysis, but this does not significantly vitiate the comparison.

It is evident from the table that nearly 75 per cent of the households are joint-families and only 17·26 per cent are truly nuclear. At the most, one-fourth of the households may be considered nuclear families. The sample is large, and the preponderance of joint-families in the highly industrialized city of Bombay is clearly indicated.

Edwin D. Driver conducted a survey in 1958 in Nagpur district in (then) Bombay State. He contacted 2,314 families, 882 living in the city, 309 in towns and 1,123 in villages. Of these, 2,160—776, 295, 1,089—were Hindu families. The

TYPES OF HINDU FAMILY IN BOMBAY CITY

Marriage group (structure of the family)		Nuclear families	Household-type* families	Marginal joint-families	Joint-families
I(a) Uni-member (m)	978				
(f)	173	1,151			
(b) Husband and wife		574†			
II One couple—husband and wife with maternal and/or affinal relatives in one generation group	482				
Coupleless—*ditto*	322		804		
III(a) One couple—husband and wife and married/unmarried children‡				3,400	
(b) *ditto*+maternal or affinal relatives or unmarried or widowed sisters and brothers without children, or with either or both the parents	1,195				
ditto (coupleless)	666				
(c) Two or more couples with married sons or father	166				2,027
IV One couple—three generations	730				
Coupleless—three generations	148				878
V Two or more couples with maternal relations	445				
ditto with others	183				628
VI Two or more couples with distant paternal relations	512				
One couple—four or more generations	16				
ditto (coupleless)	4				532
Total		1,725 17·26%	804 8·04%	3,400 34·02%	4,065 40·69%

See footnotes on opposite page.

following table presents his findings. The figures in brackets represent percentages:

	Old generation		Young generation		Total		Eligibles	
	Jt-F.	N. F.	Jt-F.	N. F.	Jt-F.	N. F.	Jt-F.	N. F.
City	115 (28·7)	286 (71·3)	87 (18·1)	394 (81·9)	202 (22·9)	680 (77·1)	202 (32·2)	425 (67·8)
Town	39 (30·6)	85 (69·4)	38 (20·5)	147 (79·5)	77 (24·9)	232 (75·1)	77 (39·5)	118 (60·5)
Village	217 (43·0)	288 (57·0)	199 (32·2)	419 (67·8)	416 (37·0)	707 (63·0)	416 (49·6)	423 (50·4)
Total	371 (36·0)	659 (64·0)	324 (25·2)	960 (74·8)	695 (30·0)	1619 (70·0)	695 (41·8)	966 (58·2)
Eligible couples	371 (48·1)	401 (51·9)	324 (36·8)	565 (63·2)	695 (41·8)	966 (58·2)		

As is evident from this table 'the joint-family is more frequent among the older couples, those where the wife is over 35 years of age. . . . When only couples having a choice between the nuclear and joint-family are considered eligibles, one finds . . . whereas 48·1 per cent of the eligibles among the old couples chose the joint-family, only 36·8 per cent of those among the young couples did so. In effect, the joint-family is both more frequent among and more preferred by the old couples.'

Before we proceed further, it is necessary to note the difference between Driver's definition of the nuclear family and the one we have adopted for our discussion. According to him, 1,207 families with one couple and no primary kinsmen in addition are simple nuclear families; and 412 families with a couple and one parent are complex nuclear families. Hence

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* The word household is used here for a residential unit. It is a nuclear family but is of a different form from the family in the first column.

† The figures in Table III(30) in the Survey are worked out on a percentage basis in accordance with Table III(35).

‡ This is a joint-family if the children are married and a nuclear one if they are unmarried. But this clear-cut division is not possible from the data available. Hence they are tabulated here as Marginal Joint.

his figure for the nuclear family is 70 per cent.[22] We have grouped the latter families in the category of joint-family and on our counting the percentage of the nuclear family in Driver's survey should be 52·2 per cent, or only three-fourths of his figure.

Another point to be observed from this table is that the joint-family in the rural area is much more numerous (almost one-and-a-half times) than in the urban area ; but between towns and cities there is no significant difference. In the rural area, joint-families are more in the higher income group (Rs 1,000 and over) than in the lower, whereas in the urban they are less, particularly in the towns (12·5 per cent only), in the highest income group of Rs 1,500 and over.

One finds no close correspondence between education levels and the joint-family. There is a very low percentage of joint-family (19·2 per cent) among the middle-school educated in towns, but it is 28·2 per cent in the city. Similarly, while there is a progressive decline in the number of joint-families as we proceed from the illiterate to above middle-school educated (four levels) in towns and villages, the percentage of joint-family in the city among the middle-school educated is 28·2 as against 22·6 among the primary-school educated. The only correlation observable is that the number is very low among the above middle-school educated: 14·7 in the city, 8·3 in towns and 10·9 in villages.[23] The percentage of joint-families in the rural area is 37·0 ; at various educational levels it is 39·6, 37·2 and 36·6. It is the rural background that determines the family type and not the educational level. It is only in the towns that one observes a close correspondence between the educational level and the type of family. The incidence of joint-family is lower in the urban area, and particularly in towns (12·5 per cent and 8·3 per cent)* among the highest income group (over Rs 1,500) and among the above middle-school educated. Broadly speaking, as Driver observes, 'in all three areas the joint-family is most frequent among the uneducated and is least frequent among those who have achieved more than middle-school education'. But such a generalization seems to the present writer dangerous in the light of the foregoing discussion.

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* In the city the percentages are 20·4 and 14·7 respectively.

What one can say from Driver's study is that the joint-family is not favoured today as much as it was in the past:[24]

	Old generation %	Young generation %	Less by %
City	28·7	18·1	10·6
Town	30·6	20·5	10·1
Village	43·0	32·2	10·8
Total	36·0	25·2	10·8

In fact, of all the factors affecting the strength of the joint-family—place of residence, educational level, economic status—this study confirms that none is so effective as the displacement of generations. If this is conceded, then with reorientation of relationships between the two generations the joint-family will persist for some time to come.

Our analysis so far has clearly revealed that even in the urban area the occurrence of the joint-family is still high. Throughout this discussion we have taken households (residential units) for determining the type of family. Relationships between the members of such a household and those of another from which it might have branched off by reasons of occupational necessity, or of any other households derived with it from a single joint-family, are not ascertainable from these records. Even in cases where the property is divided and the income of the members is not pooled, the constituent households maintain their connexions through mutual co-operation and rights and obligations other than those concerning property. The members of constituent households consider themselves duty bound to meet on occasions such as the celebrations of *vrata,* the performances of various *saṁskāras,* particularly the thread ceremony, the celebration of the first birthday of the first male child, and a marriage in the family. These obligations involve not only sharing the joy of the occasion but also pecuniary liabilities; they also compel members of associated households to be present on the occasion of a serious illness or death. Such obligations keep feelings for the joint-family alive ; monetary obligations on all such occasions are considered natural and just and are consequently met readily and without a murmur. But occasions for meeting are decreasing now and in course of time joint-family sentiments will be weakened in consequence.

I. P. Desai has shown the differences resulting from evaluation of the system on the census basis when compared with this sociological approach. He has also shown how computing the percentage of a particular type of family on the basis of households produces a different result from a computation of the members constituting these households. If both these aspects are properly taken into account now that their sociological significance is known the occurrence of the joint-family will be higher than it appears to be in our analysis.

Sunil Sengupta[25] in his analysis of family organization in rural Bengal has drawn attention to another fact which is still more pertinent to our analysis of the types of family. 'A family where the "head" is living with his wife and children is taken as an instance of a nuclear family. . . . But what about a family where the "head" has had no brother at all? This family might have had its traditions of a joint-family but in the absence of any brother there was no scope of this family developing into a so-called joint-family.' This raises a parallel question, namely whether those who live in nuclear families today do so by conviction or otherwise. B. V. Shah has attempted to discuss this aspect of how far individuals have ideologically deviated from the traditional family. We invariably find in the studies from which we have gained our data that some of those who live in nuclear families would prefer to live in joint-families. Any calculation of the strength of the joint-family should take into account persons who, for one reason or another, are not living in a joint-family but nevertheless are in favour of it.

Before we close our discussion of the urban family it would be worth while examining the attempt of the 1951 Census to classify types of family on the basis of size. According to the Census Commissioner the percentage of different types of household for the whole of India is :[26]

	Small	Medium	Large	Very large
In a typical village	33%	44%	17%	6%
In a typical town	38%	41%	16%	5%

And he observes: 'Of the four types, medium households are the most numerous, which is what one would expect. That very large households with 10 or more members number only about one in sixteen is also not unexpected. But it seems a little surprising that every third household in a village should be a "small household" with three members or less. Such a large proportion of small households is a *prima facie* indication that families do not continue to be "joint" according to the traditional custom of the country.' As Desai has pointed out, 'it is not correct to infer the type of the family and the extent of its prevalence from the size of the family, under the present social situation in India'. Again, the picture presented by the Census Commissioner will be found to be misleading if individual towns and cities are analysed. Of the 1,120 families in central Gujarat more than half the households are families with eight or more members. Even in the urban area, nearly half the households are such big units, and in the city of Baroda nearly 43 per cent of households are large or very large:

Size	Baroda district			Kaira district		C. Gujarat		Total
	Rural	Urban	City	Rural	Urban	Rural	Urban	
Small ... ... (1-3 members) ...	3·57%	4·66%	6·00%	6·6%	7·4%	5·48%	6·37%	6·07%
Medium ... ... (4-7 members) ...	37·14	45·33	51·20	36·0	37·6	36·30	43·83	41·26
Large ... ... (8-10 members)	32·14	31·33	26·40	33·9	31·4	33·16	29·72	30·89
Very large ... ... (over 11 members)	27·15	18·68	16·40	23·5	23·6	25·06	20·08	21·78

In an all-India counting, the percentage of large households is shown to be only 21. Even in the *Digest of the Census Report for Bombay, Saurashtra and Kutch*, only about 24 per cent are said to be large or very large. Further, in the all-India counting there is not an appreciable difference between the rural and the urban setting, particularly in respect of the large and very large households, except that the percentage of small households in the urban area is slightly higher than in the rural area. In our surveys, however, we find a significant difference, other than in the number of small households, between the rural and the urban scene. The average given in the Census records is therefore not a reliable index for an analysis of family types.

In the present author's survey of Navsari, large-sized households among joint-families are found mainly in the urban area[27]:

Area	Size of family group						Average size of a family
	Households			Persons			
	1-3	4-6	over 7	1-3	4-6	over 7	
Rural ...	18·5%	46·5%	35·0%	7·9%	38·8%	53·3%	6
Urban ...	7·9	41·0	51·1	2·9	29·8	67·3	7

'Whether we look at the situation from the point of view of the average size of the family, or from the point of view of the size-groups of the families or from the point of view of persons living in the different size-groups, we find that the town scores over the villages in the incidence of the higher number.' The data of the Bombay Survey are not comparable as the units there are different from the units of the Census reports. The only point on which the Survey is clear is that 11 per cent of the families covered by it are uni-member families (11·5 per cent among the Hindus) and 12·1 per cent are double-member families.[28] Although this is an indication of big cities having a large number of small families it cannot be taken as a general picture of the urban family in India. It should by now be clear that to use the size of the family to assess the impact of urbanization on the Hindu family is misleading and erroneous.

It is also clear that our analysis of the Hindu family in an urban setting is inadequate and consequently inconclusive. This is due to the inadequacy of our data. All the studies on which we have relied are limited ones, examining this or that particular aspect. A second problem is that there is no unanimity about how to define a joint-family. For a proper perspective sociologically we must accept certain basic features as criteria in deciding which contemporary families are joint in the traditional sense. Common residence and a common kitchen are desirable as external insignia but are seldom necessary to joint-living in conditions prevailing today. Emphasis must be placed on the relationship of the constituent members to the head of the family and also on the generation-depth of the group. Even if the family is not joint in the traditional manner and has rather the appearance of a nuclear family yet it may still have to be classed as a joint-family. On the other hand, take the case of a husband and wife, with or without children but with another childless couple in their family. This may or may not be strictly a nuclear family; but it should not be called a joint-family, for a joint-family must have only direct male descendants as its constituent members. Obligations to a widowed sister or a widowed daughter may arise from her belonging to the family, and to that extent they are obligations arising from loyalty to the joint-family; but such families should be distinguished from strictly joint-families. Finally, the emphasis should be not so much on the number of households as on the number of persons connected to the particular type of family. The number of persons is of more significance sociologically and, taken as the base, will produce a different set of percentages. I. P. Desai has emphasized this while discussing the size of the family, and observations by the present author have confirmed his viewpoint.

Although the joint-family has not disintegrated as is commonly assumed, the traditional type is passing through severe stresses and strains. B. V. Shah observes: 'Though the students are largely joint-family-minded it is significant that none of them mentions "uncle" as one whom they would like to include in what they call their "own family". . . . The family composition that is largely favoured is that of parents, themselves and their children, their married brothers and their dependants and their unmarried brothers and sisters. . . . Among some of the students a trend is evidenced to prefer still smaller joint-families which exclude even married brothers from the household in order to avoid the ill-effects of too large a family group with many diverse and conflicting interests.' Ramnik Chudasama found a similar attitude among the secondary school teachers of Rajkot: 'No teacher has preferred to include any agnatic relative who is not a close kin in the family. Only the parents and married brother(s) or son(s) are preferred as constituent members. Those kin who are not very close have lost their place in the joint-family.' Among the joint-families of the teachers he contacted, there were only six or seven having a father's brother, his wife, father's sister or her children (who came for study or jobs) as constituent members. The other families comprised, as constituent members, grandfather, father, married son(s) or brother(s), widowed or deserted daughter or sister. There were only three or four families with three- or four-generation depth.[29] Even in Driver's survey the majority were families of only two or three generations with close kin: (1) parent(s) 528 (22·8 per cent); (2) parent(s) and either brother(s) or son(s) 221 (9·5 per cent); (3) parent(s), brother(s) and son(s) 7 (0·3 per cent); (4) brother(s) and/or son(s) 351 (15·2 per cent).[30] Driver has not specified whether the brothers and sons were married or unmarried, which is necessary for defining precisely the type of family. Of the 139 urban joint-families of the author's Navsari survey, 29·5 per cent had parent(s), brothers or sisters, or both, as constituent members. A further 21·6 per cent had grandchildren as members, and at times other relatives as well, and 48·9 per cent had married brothers and other relatives as constituents.* The Navsari survey showed a comparatively great persistence of the traditional joint-family, though its range was generally three generations and not four.[31]

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* The Census data do not record the relationship a member of the family bears to its head. Relationships in our tabulation have been traced as far as possible, and when a person could not properly be placed into the genealogy of the head of the family he had to be shown as a relative—it is assumed a male relative. In many cases, however, they are widows or unmarried, or at times married, women.

It is commonly expected that a Hindu male should look after his parent(s) who have grown old and/or who are unable to earn. It is also considered a moral obligation for a person to support teenage brothers and sisters who have not married or started on a career. When a man expects his married sons to stay on with him there is perhaps lurking in his mind a desire that his sons and grandsons will provide him and his wife with food, shelter and care in old age. This desire may or may not be fulfilled (there may even be a subconscious apprehension that it will not be fulfilled), but in spite of this, a man's attachment to his children, the happiness he has in fondling his grandchildren, the pride he feels in their progress—all reflect the strong emotional link that binds him to them. In fact, a joint-family of a man, his wife and children, his parents, his dependent brothers and sisters, is founded primarily on emotional intensity; it is sustained by moral obligation and is backed up by public opinion. A person who is indifferent to his aged parents or to his younger brothers and sisters is condemned by his kin, members of his caste and even the residents of his locality. It is a matter of general observation that, in the words of B. V. Shah, 'economic obligations towards the collaterals are not so strongly felt now as they are felt for one's parents and children'. Although a person will generally be prepared to discharge his social and economic obligations to his parents, younger brothers and sisters, and his own children, with an easy heart and from a sense of moral duty, yet he may be reluctant to support distant kin and collaterals. It is therefore of interest to know that among 98 heads of families in the Navsari survey, twelve supported widows, two widowed daughters, two widowed sisters, two brothers' widows and six widows whose relationship with the head of the family could not be precisely determined. It was also found that among the Brahmins the percentage of the traditional joint-family was 65·62. The higher castes generally guarantee economic security to near kin, especially widows, in pursuance of traditional norms as perpetuated in the culture. So long as this cultural ideal persists, care will continue to be taken of joint-family dependants; and so long as this obligation applies and is recognized, the joint-family will be sustained.

The old family of descendants and collaterals with a range of four generations was dying out even when Merchant recorded his observations. And thirty years later it has become the exception rather than the rule. There is no chance of its being revived. Nevertheless, this metamorphosis is not due to urbanization. Migration to the cities may have increased the number of nuclear units but that in itself is not the cause of the disintegration of the joint-family. The reorientation of personal relationships, the changed status of women and the urban habitation of individual families have rather strengthened the weakening strands of the joint-family. As we have seen, recent surveys show a considerable number of joint-family units in the urban area, and even youngsters are known to be in favour of joint-living. The impact of urbanization on the joint-family has thus been very limited—certainly not so great as to bring about its disintegration, despite what is assumed by those who have not examined the nature and extent of the impact as reflected in analytical studies.

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RECENT AND CONTEMPORARY TRENDS AFFECTING THE JOINT-FAMILY

THE JOINT AND UNDIVIDED FAMILY USED TO BE ACCEPTED AS THE normal pattern of Hindu family. The basis of such a family was that the different members of it should dwell in the same house, take their meals and perform their worship together and enjoy property in common. Common residence and joint preparation of food as well as eating together were the external symbols of homogeneity of the family. As it exists today, the joint-family has lost these characteristic elements to a large extent. A man may live separately or he can establish his own separate kitchen in the same house without affecting his interest in the coparcenary property. He may decline to join in the family worship, he may even be converted to Islam or to Christianity, and yet he does not on that account lose his status as a member of the joint-family. He may keep his own earnings to himself without pooling them with the common property; for by the Gains of Learning Act, 1930, the extent of self-acquisition, which was recognized in principle from the time of the Manusaṁhitā, has been much widened. Even when learning has been imparted to him with the aid of the joint funds of the family or with the aid of funds of any member(s) thereof, or even when he or his family has been maintained or supported, wholly or in part, by the joint funds of his family or by the funds of any member thereof while he was acquiring his learning, all the gains of learning are his own exclusive and separate property.

An essential feature of the joint-family was the coparcenary, whose members—lineal and collateral male descendants within four generations from the original holder of the property—had a vested interest in the family property by the fact of their birth in it. The coparcenary was a fluid entity, the number of whose members fluctuated by reasons of birth, adoption, marriage, separation and death. As the property devolved only on the men, the share of a deceased person who had no male child was lost to his widow or female children ; and thereby the proportionate share of the surviving coparceners was enlarged. The interest of each coparcener was accordingly a fluctuating interest, that was enlarged or diminished by these events. Consequently, no individual member of the family, whilst it remained undivided, could predict his specific share of the joint and undivided property. The share of an individual coparcener being thus undetermined before partition, no one could alienate it for value or mortgage it.

The British courts, however, recognized a member's right to separate himself from the coparcenary by merely expressing his wish to do so and without asking for partition by metes and bounds, i.e. strict division. A coparcener is now even permitted to alienate for value his unascertained share in the joint-family property before partition.

When the sons were under the control of their fathers and observed the rule of obedience to and respect for the family elders, and when the social control exercised through caste and the village community strengthened the discipline of the family, demand for partition of the family property by any member of the coparcenary was rarely made. What is known as the theory of survivorship was, on the other hand, the guiding principle for the family property. A crucial decision of the Privy Council, however, enabled a widow of a deceased coparcener in a joint-family to make a valid adoption, and thereby preserve her husband's share, without the consent of the other coparceners. This in essence attacked the theory of survivorship and guaranteed to the individual his specific share in the family property. The Hindu Woman's Right to Property Act of 1937 went a step further; it recognized a member's widow as his surviving personality with the same right as his in the joint-family property. Section 6 of the Hindu Succession Act recognizes without abolishing joint-family property the right, upon the death of a coparcener, of certain of his preferential heirs to claim an interest in the property that would have been allotted to such coparcener if a partition of the joint-family property had in fact taken place immediately before his death. His undivided interest in the coparcenary property thus vests in his daughter, predeceased daughter's son and predeceased son's daughter. The theory of survivorship has thus been totally obviated.

With the increasing awareness of individual interest, the vested interest in the coparcenary property has sharpened the conflicts between the juniors and seniors in the family, and alienation of share and suits for partition or private partitioning of the family property have become common. A member of the coparcenary can insist on partition even if he is a minor. The British courts by their interpretation and administration of the Hindu law thus set into motion tendencies disintegrating the joint-family organization of the Hindus, and these tendencies were aggravated by subsequent British legislation.

In the old village society, the joint-family was the primary unit to which an individual pledged his or her loyalty. Even when, with the development of communications, the family began to shed its primary functions one after another, it continued to play a very significant role as an agency providing social security to its members in both normal as well as critical periods. Child-marriage being customary among the Hindus (and it is not yet obsolete, for even today a boy often marries while he is still dependent on his family), the young man and his newly-married wife are supported by his family over the long period prior to his becoming capable of earning for them both. In cases of sickness, delivery, etc., it is the members of the family who nurse the ailing and the needy, more so in the villages where hospital facilities are meagre. The widowed as well as the deserted daughters or sisters, with or without their children, find asylum in the husband's home which supports the widows of the family as well. Brothers' children as well as daughters' or sisters' children stay as members of the household, particularly when learning or working in towns. In some cases the latter become permanent members in the event of their mother's death. The care and maintenance of these dependants is a moral obligation, as with aged parents and young children, and is backed by the force of social prestige and the fear of opprobrium. The individual looks to his family for help and shelter in all situations of crisis, such as unemployment, famine and sickness. During recent years developments have taken place which have reduced reliance on the joint-family; yet it still stands as an organization for social security, for the agencies and devices which have emerged recently to take up this primary function of the family are still limited in their scope and extent.

Social security is provided compulsorily in India only to workers in factories. The Workmen's Compensation Act of 1923 provided for the first time compensation for employment injuries to the factory workers of British India. Later on these benefits were conferred in some of the states—Mysore in 1928, Cochin and Indore in 1935, Travancore in 1939 and Hyderabad in 1940. Maternity benefits, however, came to be provided first by the states and then by the provinces: Bombay (1929) and Central Provinces (1930) being the pioneers among the latter. Various others followed the lead and between 1934 and 1954 Madras, Mysore, Uttar Pradesh, Bengal, Hyderabad, the Punjab, Assam and Bihar put through legislation.[1] The question of extending maternity benefits to women employed in mines was taken up in 1941 and was answered with the Mines Maternity Benefit Act.[2] Maternity benefits along with sickness allowance and food concessions came to be provided to plantation workers by the Plantation Labour Act of 1951.

The Royal Commission on Labour of 1931, the Whitley Commission, while recommending maternity benefit legislation all over India on the lines of the Bombay Act, suggested also the introduction of sickness insurance and prepared a tentative health scheme. The labour committees appointed subsequently in different states urged the implementation of a compulsory sickness insurance scheme for factory workers. The matter was taken up in 1940 when the Conference of Labour Ministers in New Delhi resolved: 'The idea of a sickness benefit fund is appropriate and further action may be considered after the Government of India have ascertained how far employers and labour are willing to contribute compulsorily to the fund.' In 1942 the problem was thought out again more seriously with a view to initiating it in the cotton, jute and heavy engineering industries, and B. P. Adarkar was entrusted with the task of preparing a scheme of health insurance. Adarkar was of the opinion that the existing Workmen's Compensation Act was 'out-of-date in its scope and operation' and that 'workmen's compensation must be taken out of the hands of the employer and subjected to compulsory insurance'. He submitted a comprehensive scheme for compulsory and contributory social insurance in 1944, in pursuance of which the Workmen's State Insurance Bill was introduced in the Indian Legislative Assembly in November 1946. This Bill sought to provide the benefits of medical assistance[3] and cash payments in cases of sickness[4] and maternity[5] and compensation for employment injury. If the injury resulted in the death of the worker, a dependant's benefit would be payable in the form of life pension either to the widow, unless she remarried, or to the legitimate or adopted son or legitimate unmarried daughter up to the age of 15, or even 18 if the son or the daughter continued to receive education to the satisfaction of the corporation operating the scheme. The benefits under the Bill were extended to all employees in factories in the final Act which was renamed the Employees' State Insurance Act (1948). The National Government, wedded to the ideal of a welfare state, was naturally eager to implement at the earliest opportunity the Constitutional guarantee that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work and to education, and shall provide public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.[6] The scheme was initially restricted to labour in the steel, cement and cotton industries and began in a phased programme in Delhi and Kanpur in February 1952; some parts of the Punjab in May 1953; Nagpur in July and Bombay in October 1954; some parts of Madhya Bharat and Madras in January 1955, Hyderabad in May and West Bengal in August 1955. At the end of 1958, 1,588,618 employees, or more than 70 per cent of the total number insurable,[7] were beneficiaries under the scheme. The Employees' State Insurance Corporation, at its meeting on 18 December 1955, decided to extend the medical benefits of free consultation, medicine, drugs, dressings and the services of a midwife to the families[8] of insured workers, and did so in a phased programme from October 1958.

By October 1963, medical benefits under the scheme had been extended to all insured workers' families except in West Bengal. The amount payable in benefits was increased by about 25 per cent.[9] The target of the Second Five Year Plan was to cover about two million workers. The *Third Plan Mid-term Appraisal* (reviewing the situation as it existed before November 1963) reads: 'Since the beginning of the current Plan, the Employees' State Insurance Scheme was extended to 3·3 lakh workers, bringing the total number under its cover to 20 lakhs. Preparatory steps have been taken to extend the scheme to Ahmedabad [in Gujarat, which is the only State that has not yet introduced the scheme] and Calcutta and when these are completed, another 7 lakh workers would have been covered by the scheme.' The scheme is likely to be extended to cover funeral expenses also.

The Employees' State Insurance Scheme at present covers industrial workers of units using power and employing not less than 20 persons. There is a proposal to extend it to smaller establishments employing less than 20 persons, to plantations, mines and shops and commercial establishments.

The Industrial Disputes Act of 1923 as amended in 1955 laid the foundation of the unemployment insurance scheme envisaged by the Government. The workers in major industries and plantations with one year's continuous service cannot be retrenched without one month's notice or wages in lieu thereof, together with compensation for retrenchment or lay-off calculated at the rate of fifteen days' average pay for every completed year of service or part of a year if more than six months.

As this social security legislation is only for industrial labour, about 75 per cent of the total population of India which depends on agriculture for its livelihood has been left unprovided for.

When the clerical staff of the factories and the salaried group are added to this section, the total percentage uncovered by any social security measure is found to be very large indeed. The family remains a sheltering harbour for the vast majority.

Some provision for some sections of the salaried class is found in the schemes of pension, gratuity and/or provident fund which exist in government and semi-government services, and to a certain extent even in non-government services. Railways have provisions for gratuity and provident fund as well as medical assistance. In 1931 the Whitley Commission felt the imperative need for similar provisions for factory workers but, hesitating to recommend any scheme, observed that 'until such time as it is found practicable to institute either a general scheme of old-age pensions or provident funds for industrial workers, Government should, whenever possible, encourage employers by financial grants or other means to inaugurate schemes of this nature for their employees'. Fifteen years later the Labour Investigation Committee, 1946, while acknowledging that some of the large employers, whose number was very small, had instituted fairly good schemes, felt that most existing schemes were not very liberal and were in certain respects unsatisfactory. It further emphasized the urgency of introducing a scheme which would stabilize the industrial worker in employment.[10] Accordingly, a beginning was made with the Coal Mines Provident Fund and Bonus Schemes Act of 1948. This had retrospective effect from May 1947 in respect of some of the mines. By 1956 the beneficiaries under the Act numbered 920,686. In November 1950 the question of a provident fund for industrial workers was discussed by the Standing Labour Committee, and the Government in pursuance of it passed the Employees' Provident Funds Act in March 1952. This benefited workers in cement, cigarette, engineering, iron and steel, paper and textile factories employing 50 or more persons, and of not less than three years' standing, except those owned by government or local authorities, from 1 November 1952.[11] The Act covers every employee with one year's continuous service and earning not more than Rs 300 a month as basic wage.[12] A worker's claim to the contribution of his employers to the Fund arises after not less than five years' service and varies according to the length of service —50 per cent for 5-10 years, 60 per cent for 10-15 years and 75 per cent for 15-20 years. The worker is, however, entitled to the whole of it if he is retrenched from service, is physically or mentally incapacitated for work, is suffering from tuberculosis or leprosy, retires after attaining the age of 55 or is migrating abroad permanently. By September 1955, 1,533,000 workers employed in 1,943 factories were covered by the scheme, and in July 1956 it was extended to thirteen other industries. It now covers 79 industries and classes of establishments. By the end of June 1963, nearly 23,000 establishments were covered under the Act and over 3,600,000 employees were getting its benefit. A Bill is (March 1964) under consideration by the Lok Sabha to extend the benefits of the Act to workers employed by or through a contractor.[18]

The Central Board of Trustees administering Employee Provident Funds in Madras had on its agenda for a meeting held on 6 October 1963 an item to set up as an experimental measure for one year 'a death relief fund' to ensure a minimum payment of Rs 500 to the beneficiaries of deceased members. This benefit is limited to those cases where the pay of the deceased member does not exceed Rs 500 a month at the time of death. In Kerala, the family pension benefit which was admissible only in cases of deceased government employees who had served for not less than 20 years was, on 1 April 1964, extended to government employees on pensionable establishment, temporary or permanent, with a minimum of one year's service. On death while in service or after retirement of the employee, the widow or widower is entitled to the pension for life or until remarriage. A minor son is eligible for a pension until he attains the age of 18, and an unmarried daughter until her marriage or until she reaches the age of 21.

Another means of obtaining security in modern society is life insurance, which makes provision for old age as well as dependants. Though insurance was started for the benefit of postal employees in India as far back as 1883, and was later permitted to all government servants, the foundations of Indian life insurance can be taken as dating from the beginning of this century, and its development as from the

First World War. During the last forty years it has made constant progress and is now an important factor in social security.[14]

In the absence of a census of persons holding life policies, neither the number of insured persons nor the various social categories to which they belong (which is more significant than the amount of business) is precisely known. It is common knowledge that rich people used not only to insure for a higher sum but generally took more policies than poorer people did, and consequently the great increase in the number of policies in the years following the Second World War did not necessarily mean a wider coverage of persons.[15] A. N. Agarwala however observes that 'the extent of policy overlap in India is not likely to be much', and that 'the lapse ratio in India is rather high'. 'Out of 184 companies whose results are available from the *Indian Insurance Yearbook, 1948,* there were 24 companies which had lost more than 50 per cent of the business written in 1944 by 1947, three of which showed a loss of over 90 per cent.' The lapse ratio of the 'Big Five' was about one-fourth of the new business written in 1944.[16]

Further, the average amount insured per policy by Indian insurers increased progressively from about Rs 1,500 in the decade preceding the Second World War to Rs 2,193 in 1942, Rs 2,341 in 1949, Rs 2,575 in 1951, and Rs 3,123 in 1954; but even here, according to Agarwala's estimate, 78 per cent of the policies were for amounts varying between Rs 1,000 and Rs 5,000, and its coverage was 86·3 per cent of the persons insured. Agarwala adds: 'The larger insurable capacity of rich persons is matched by the smallness of their number; . . . As against this, lower middle class persons, even though showing a lower insured frequency, would bulk large by pressure of their numbers in the total population. . . . If, however, we calculate the percentage of insured population to total population in each of the various social classes separately, we would find a high percentage in respect of the rich and upper middle classes and a much lower percentage in respect of the lower middle class.' Even in the low incidence of insurance among the lower middle class, 'it has made headway mostly among salaried people who live in urban areas and who have had the benefit of education. The lowest income-receivers in the country . . . are almost entirely devoid of this form of protection'. In fact the insured population in the country is only about 9·92 per cent of the total population.[17]

Since nationalization the situation has changed a little. The average sum per policy rose to Rs 3.424 in 1957, to Rs 3,671 in 1959 and to Rs 4,179 in 1963. The Life Insurance Corporation is spreading its business intensively in the rural areas: in 1961, 36·5 per cent of the total policies were issued in the rural sector. The Janata Policy Scheme for the low income group is similarly aimed to cover a section of the population to whom the idea of insurance is new. The total number of policies has gone up from 4,310,000 in 1954, to 5,418,000 in 1957, to 9,261,000 in early 1963. The lapse ratio is, however, equally on the increase: from 5·1 per cent in 1958 it rose to 8·1 per cent in 1963.[18] The L.I.C. has also introduced a scheme to finance housing by co-operative societies and individuals.

These developments then, may be said to touch only the fringe of the problem and consequently the joint-family still continues to be by far the major provider of security to its members. The very fact that 87 teachers in the author's 1953 survey considered the joint-family economically desirable and 80 more favoured membership of it as an insurance against old age, illness and unemployment ; as a means of relief and refuge to orphans, widows, and the disabled ; and as a resort in financial and social crises, in obtaining funds for marriage and education and to meet emergencies—brings out the importance of the joint-family in Hindu thinking.[19]

The Second World War led to a steep rise in the cost of living and to economic hardship, at least for the middle class. The desire for economic stability and social security increased as a result of post-war economic strains.[20] The irony is that, in these circumstances, the more the individual looked to the family for the relief of economic strain the less was the family able to provide it. Yet although the family has ceased to be of much help now in the various contingencies the individual faces, the very fact that people still look to it as a refuge encourages its survival.

Another institution to which an individual looks for succour is his caste ; and now, with the increasing strains of the family and the tensions within it, caste is more and more assuming the responsibility of helping its needy members and is thereby strengthening its solidarity. It provides fees and textbooks to students, gives scholarships for higher studies, gives maintenance to widows and the indigent, and house rent to the poor. It provides medical assistance free or at cheap rates and seeks to help its members in many other ways. To illustrate the extent of only one of the many activities organized by one caste in Bombay, which is not a very affluent one, medical consultation and treatment were provided to 15,716 of its members within the first year of inception of a medical scheme. The number went on increasing year by year and in the fifth year 20,367 members made use of the caste dispensary. An opthalmic section opened in the second year treated an average of 523 patients annually at a cost of Rs 1,328 a year. Also, maternity assistance was given to 472 women, and 74 were given post-delivery care and assistance. This one caste thus spent Rs 15,215 annually to meet the medical needs of its middle class members.[21] Economic strains increase as the years go by and people lean more and more heavily on caste for assistance. If the number of castes organizing welfare schemes were to increase, the coverage of social security would be widened and the framework of the caste system itself would be strengthened. Although the impact of caste on the joint-family appears to be adverse, this process would indirectly help the family to persist.

The future of the joint-family depends also upon the way in which conflicts on the economic and the ideological planes within the modern family are resolved. The questions are whether the economic obligations are felt to be burdens by the constituent members and whether the ideological differences have become so pervasive that they are found by the members to affect the growth of their personality. Many of the economic obligations are resisted by members of the joint-family. All the members do not earn ; and many of those who do earn not only refuse to pool their earnings but do not accept even their responsibility to contribute adequately to family disbursements.

Yet while there is mutual recrimination over sharing the family burden there is also an emphatic assertion of equal share in the family property. Young men living in cities often find it hard to meet the financial demands made by relatives living in the native place. Even when they can afford to meet such demands they resent having to support those in the family who can work but won't. Nevertheless the conflict on this count does not seem to be so serious as is generally conceived. Three-fourths of the 280 teachers who replied to the author's inquiry are not dissatisfied with their share in the joint-family and 4 to 5 per cent are only partially dissatisfied. But the important point is the amount contributed. If a member contributes less than he should there is no reason for him to be dissatisfied. The main difficulty in assessing this aspect is that about 60 per cent of the teachers who contribute willingly have not specified their share in the family expenditure ; of the remainder, 55 per cent bear the major burden. Obversely, of those who have said that they are dissatisfied with their burden, and they constitute one-fifth of those who have replied, only 25 per cent pay the major share. To another question, answered by 151 teachers, 47 per cent say they bear the brunt of family support ; and whereas 11·25 per cent are dissatisfied on this account, 31·12 per cent are willing to continue to live on these terms in the joint-family.[22] Though it is inadvisable to generalize on the basis of such a small sample, it may be accepted that the economic obligations imposed by the joint-family do not necessarily act as the mainsprings of the break-up of the family.

The conflict on the ideological plane, however, is more significant. The ideology of the joint-family stipulates co-operative effort, the observance of certain norms and the authority of the elders. As regards the ideal of co-operation, there appears to be no strong aversion or objection to it on the part of young people in the family. In a recent inquiry made by the author,[23] 97·3 per cent of secondary school students in Surat district (south Gujarat) regard as proper most of the work assigned to them by their parents, whether it be in the field, home or business, and they perform it cheerfully ; 48·5 per cent of these consider it their duty to help their parents at home ; only 1·1 per cent do such work against their will and only 0·7 per cent of them feel any aversion to it.[24] This co-operation between the young and their elders in household work is normally to be found everywhere, as is shown by other studies of secondary school students in the Baroda and Kheda districts of central Gujarat and Poona.[25] There too they are said to work voluntarily out of understanding and attachment to their parents and family. 'Participation in such works gives them a sort of satisfaction of helping their parents and a sort of a place in the family.' Cordiality between the two generations is thus much in evidence and conflict is unlikely to occur so long as parents adopt a liberal view of erring children. Few children are punished for avoiding the work assigned; only 6·7 per cent of the respondents said that they had received mild punishment.[26]

That the former authoritarian attitude of the elders is more or less absent in the contemporary Hindu family is borne out by another fact also. The adolescents do not mind asking permission of their elders when they are likely to return home late. If they have failed to do so, they do not mind being questioned on being late. Only about 8 per cent of the students said they did not ask permission of the elders, and 18 per cent found it irksome. Similarly, only 16 per cent found the authority of the elders to question them for being late sometimes a little overbearing and only 10 per cent positively resented their independence being questioned. In view of the fact that nearly three-fifths of the students respected the authority of their elders in the supervision and control of their behaviour, it can be said that the emotional link between the two generations is not strained. The fact that the elders show moderation in the exercise of their authority augurs well for strengthening this link.[27]

In the traditional joint-family it was expected that 'the suggestions of the seniors should be heard and performed and it is bad taste to talk back to them. Differences, if any, are conveyed through a third person who, either because of his generation or familiarity, is competent to argue out with the senior member.' Not only was there to be no questioning of the orders or deeds of the elders, but they could not be approached by members of the younger generation on terms of familiarity or intimacy. This was the logical corollary of another expectation, namely that 'a man of the upper generation and an older man in the same generation should be looked upon with respect'. The ideology of the younger generation of today seriously clashes with these formalized restraints. As a result, 'these relations of subordination and superordination have become very painful'.[28] As a result of education and economic independence, young people have become imbued with democratic ideas. They demand that the elders should stop imposing their views and that they should become more liberal in outlook. The young should be consulted, and their views and opinions should receive adequate attention and recognition. Similarly, differences in taste and habit between the two generations should be regarded with tolerance. What the young demand is a reorientation of the the relationship between the head and the elderly members of the family on the one hand, and the young men and women on the other, in a way that will provide full scope for the proper and healthy development of the individuality of the young.

In order to measure the nature and extent of the strains in the family we shall now examine the results of two inquiries—one addressed to adults (graduate teachers) and the other, more comprehensive and penetrating, to adolescent high school students. Many of these adolescents were not clear about the nature of their relationship with their elders. The over-all impression which one gets from their replies is that they 'follow the old pattern of respecting the elders with whom they feel they cannot talk freely'.[29] The number suffering from fear of their guardians is, however, very small and there is little evidence of awe of traditional parental authoritarianism. In short, the attitude of the younger generation is motivated by respect rather than by fear. This is a traditional attitude which seems bound to continue. Even though it may appear as a kind of restraint, there is a general feeling among a very large majority of the youngsters that 'the relations between them and their elders are quite cordial or verging on equality'.[30] This means that the elders in contemporary families have been able to maintain their status not by the stern discipline or rigid firmness associated with the authoritarian head of the traditional joint-family but through affection and understanding. The cordiality of the relationship in general is confirmed by the fact that 58 per cent of the students say that they can talk freely with their parents at meals or even at other times. At the same time, adds B. G. Desai, the student dislikes 'rudeness of any type either in talks or in manners or in behaviour. He dislikes disobedience to the elders, but just as he dislikes this, he also at the same time dislikes the autocratic domination of guardian. This means that the student has a certain standard of measure of behaviour with himself and this standard includes decent talk, refined manners, cordial behaviour, co-operative equality, absence of suspicion, mutual trust and sound character.' In short, 'the traditional roles and duties persist without much evident conflict, probably because the elders seek to maintain their positions of status in the family, not as they did in the past by awe and authority but by adapting their discipline to satisfy the needs and aspirations of their wards.' This change in the family atmosphere, tending to become responsive to the aspirations of the younger members of the family, though slow, is healthy for the continuance of the joint-family inasmuch as it generates emotional links between members of different generations and of opposite sexes.

Another aspect of the question may also be reviewed from the point of view of the feeling of the students. When asked to say how they found themselves in their family environment, only 56·4 per cent of them reported to feel quite happy.[31] The percentage is low because 38·2 per cent of the students are either indifferent to or reluctant to reveal their situation in the family. However, 73 per cent of them stated that they had never felt that they should leave their family: only 4·6 per cent had had such a feeling. Of the total survey, 84·8 per cent 'find their family atmosphere congenial and never feel therein any excitement as would put them in a mood to leave the family', and only 6·5 per cent of them found themselves out of step with it. The percentage of the latter is pretty high, about 16 in two other surveys and about 20 in I. P. Desai's survey. I. P. Desai observes: 'There is a severe strain on the parent-ward relationship in the family.' Of the 168 students who reported in his survey that they had wished at times to leave home, only 117 gave reasons for it. Of these 64·1 per cent mentioned their elders' attitude to them—authoritarian, disrespectful, unfair or unjust behaviour; 18·8 per cent reported an uncongenial atmosphere and strain arising from it; 10·2 per cent were fed up with quarrels in the family. But these reactions may be due to a variety of reasons not directly related to the traditional authoritarian attitude of the head of the family. A. S. Patel found that 70 per cent of the dissatisfied in his survey were living in big and very big families and 60 per cent of them in families whose economic conditions were below 'ordinary'. In the author's survey, in about 44 per cent of the cases of conflict, convulsion or disharmony in the family arose from economic strains, shirking, or uneven distribution of work in the home, affecting the proper management of the family. In one-third of the cases, conflict arose on trivial issues or even without any reason. It was in about 22 per cent of the cases that the conflict was rooted in the 'new look' in respect of the young husband's own position and his concern for his wife and children. A few students thought of running away when they failed in an examination, or were not allowed to go to a cinema show, or when attempts were made to betroth them against their will or to force them to study.

Mental uneasiness in a joint-family is sometimes inevitable as a result of its size, sometimes because of economic strains and consequent bickerings, sometimes because the expectations of the younger members as to the way in which their needs should be served are not fulfilled and sometimes due to temperamental strictness or exaction on the part of the elders. It is not improbable that at times the inconveniences or dissatisfaction which the students experience in the family are exaggerated by them or are the products of their own imagination. Quarrels and tensions in the family thus arise from a variety of reasons and not necessarily, or even primarily, from the elders' traditional handling of their authority. 'Students do have a rudimentary urge to escape the heavily-surcharged atmosphere of the home, to take a leap into an imaginary happy asylum, but this emotional excitement soon dies out' and they do not leave home. This is confirmed by the fact that even when youngsters are conscious of strains between the two generations their attachment to the family is seldom weakened. 'The favourable response to the family environ reflects a good deal of cordiality and understanding prevailing between the two generations which has tremendous influence in maintaining the cohesion of the family in new conditions of life.'[32] We should like to emphasize that the number of dissatisfied students in the four surveys we have reviewed is small. This is revealing, as the surveys together embrace more than 3,000 students. Further, the nature as well as the extent of conflict is important when assessing the strength of the joint-family in contemporary Hindu society.

Another cause of conflict is the growing belief among young students that they are more culturally advanced than their parents. Children who have gone to secondary schools think they are more knowledgeable than their parents, who may be illiterate or have received only primary education.[33] They also think that they are more polished in general behaviour and speech and can score over their parents in practical life.[34] They differ from their parents in their attitude to social customs and religious beliefs. The percentage of such students is high in Patel's inquiry (46·59) and is 28·57 in B. G. Desai's inquiry. One would expect this belief in cultural advancement to be prevalent among the lower castes who have been brought only recently into the giddy world of higher education. Three-fourths of the students coming from the artisan castes, Baraiyas, Harijans and other backward castes, consider themselves culturally superior to their parents in Patel's inquiry; and so also is the case with the artisan (73·26) and the lower castes (79·97) in B. G. Desai's inquiry. Among the Brahmins, on the other hand, it is as low as 33·79, and half of them think so only sometimes. This distribution of the superior attitude is confirmed by another fact, that two-thirds of young people who think themselves better educated belong to families which are, on the economic level, below 'average'; or, to put it another way, whereas 55·6 per cent of those who belong to this economic category think so, only 45 per cent of those who belong to the average and the higher income groups have this belief.

To sum up, young people have their own ideas of what family relationships ought to be. At the same time, they 'consider themselves duty-bound to do the work assigned to them by their parents and do it cheerfully. They do not mind taking permission of their elders when they are likely to be late in the evening. Nor do they mind being questioned by them for being late if they failed to inform them about it. They thus evince their preparedness for co-operation and discipline. An overwhelming majority of the students described their relations with their elders either as affectionate and cordial or as verging on equality. The practice of the members of the family meeting together at mealtimes or after meals is fairly common and its continuance is desired by a large majority of students. Even when the students continue to talk with some reservation with their elders their feeling is that their relations with them are cordial. Their proneness to respect their elders proceeds from this affection and understanding that the elders have shown towards them. The traditional roles and duties persist without much evident conflict, probably because the elders seek to maintain their positions of status in the family not, as they did in the past, by awe and authority but by adapting their discipline to satisfy the needs and aspirations of their wards. The stresses and strains between the two generations do exist but they are limited in extent, mild in character and temporary in duration.'[35] In a word, even though family relationships have not yet been fully reorientated to provide for the healthy growth of each member, awareness that change is necessary is in evidence. The understanding that has evolved between the two generations in consequence is significant for strengthening emotional attachments to the joint-family.

Even amongst adults,[36] as the inquiry among the graduate teachers reveals, ideological differences are not so pervasive as to suggest a rapid break-up of the joint-family. The junior members have their own peculiar habits and special interests which do not always conform to the routine of the home. These differences appear, however, from the replies of the few teachers who have specified them, to be superficial—for example, they concern dress, smoking, taking of tea or betelnuts, cleanliness. A few young people clash with their seniors over sports, caste customs and dinners, or in observances of old superstitions and religious customs. Not only is the number of such persons insignificant, but those who are familiar with the Hindu way of living can affirm that they are not potential forces for the disintegration of the joint-family. Women are generally left to themselves in religious matters and religious differences are hardly debated or questioned in modern families. Almost all the teachers agree that such differences as exist can be remedied by compromise, persuasion or reconciliation. This is not to imply that relationships in the family today are as smooth as they were fifty years ago. But the conflict is not sharp enough to seriously threaten the continuance of the joint-family; it is merely irritating to both the young and old.

The conflict which proceeds from differences over the treatment of one's wife or the care of one's children is of a more serious character.[37] Many teachers feel unhappy in the family ethos because their wives feel embarrassed or repressed in a heavily charged atmosphere. Some even resent joint-living on grounds of either economic burden or emotional strain. The most commonly conflicting group in the Hindu household is the wife and her mother-in-law and/or sister(s)-in-law, predominantly the former, though strife between the wives of brothers is not unknown. The causes are all kinds of minor differences which, although usually trivial, sharpen the dominance of the seniors over the juniors. A frequent source of trouble among the women is uneven distribution of the burden of work. Others are differentiation in treatment by the elders of the various women members, and the economic obligations of their husbands to the joint-family. Further, 'the very nature of the joint-family creates points of conflict between some couples, either because they are not prepared to adjust themselves by accepting the roles and duties assigned to them by their position in the family or because of their inability to understand and accommodate some deviation from the traditional pattern on the part of some male or female members of the family'.

The other important subject of conflict is the children. The recent awakening of young girls to their rights and status and the quickening development of their personalities is a force demanding speedy reorientation of relationships within the family. The mother-in-law, trained in the old tradition and not fully conscious of this change, gives in only grudgingly when she finds herself helpless. She may be consequently embittered by and jealous of the new status accorded to her daughter-in-law, and if she cannot rule her in the old way, she may try to create situations which will embarrass and repress her. While the senior male members of the family, having realized the changing attitude among the young, have adapted themselves to make their authority in the family more palatable, it is difficult to convince the mother-in-law that the world she lives in now is entirely different from the one in which she was brought up. Educated girls have become more vocal in their complaints. It is not surprising that K. T. Merchant found that they were mainly in opposition to the joint-family; while only 13·9 per cent favoured it, 75·0 per cent opposed it.[38] The post-war economic strains have encouraged women to assert their proper status in the family. Educated women have taken up jobs, and this before the war would have been generally regarded as derogatory to the family. The senior members have reconciled themselves to the changed duties and roles of women in the family under the pressure of the ever-increasing cost of living.

The economic independence of young women can affect the joint-family adversely; but it can at the same time strengthen it. As helpers they have secured a respected position in many families, and the joint-family is the best environment in which their new role can be reconciled with their traditional obligations—the management of the home and the rearing of children. In the absence of a joint-family, not only are women overburdened with the work outside and in the home, but the children have to be left to the care of servants, which is neither economically nor emotionally a pleasing prospect. Measures of birth control and family planning, which are increasingly adopted by modern couples, may to a certain extent obviate the necessity of leaning heavily on the joint-family; but for some time to come the joint-family will continue to perform this useful function.

It is generally assumed that the joint-family is particularly suited to the agricultural community. Agricultural activities demand the services of many hands on the farm and these are only made available by the co-operation of all the able-bodied members of the joint-family, for wages to outside workers are prohibitive in proportion to the low prices fetched by crops. The Indian farmer used to be producer, seller, labourer and investor combined. Each of these functions can be performed efficiently and to the advantage of the family if the family is a joint one. Attendance to social calls (and in a rural area a person cannot ignore them without impairing his economic activities) is facilitated by the joint-family. Disintegration of a joint-family implies fragmentation of agricultural land, and in many cases the resultant piece would be so small as to be unproductive for cultivation. The obverse side of this situation is that the majority of the peasantry has an uneconomic holding, land varying between one and five *vinghas*. As the whole family cannot be supported on such a small area, the younger members who are given education qualifying them for a job or profession go to the towns and cities to look for employment commensurate with their academic equipment. Some joint-families have also prospered by allowing some of their members to go abroad to such places as Africa, Burma and Malaya; and the present writer knows in Gujarat many families that have so prospered. Panandikar writes about Bengal: 'In East Bengal the majority of people are Mohammedans, and as the joint-family system has been less powerful amongst them than among the Hindus, they have found it difficult to make arrangements by which some members of the families can take up industrial work, leaving the other members in the village to cultivate the ancestral lands.'[39] The agricultural community has naturally, therefore, sentiments in favour of the joint-family.

The joint-family is not necessarily a concomitant of an agricultural community, however. The author has analysed 246 families from Navsari town and 1,099 families from fifteen villages of Navsari taluka in Surat district, on the data provided by the Census of 1951, to ascertain their composition. In the town, as can be seen from the following table, the preponderance was of joint-families; but in the villages there is a different situation:

Caste	Navsari town		Villages		Total	
	Joint	Nuclear	Joint	Nuclear	Joint	Nuclear
Brahmins ...	53·3%	46·7%	62·5%	37·5%	59·15%	40·85%
Banias—Jains ...	70·0	30·0	55·6	44·4	65·56	34·44
Patidars—Rajputs ...	66·6	33·3	61·7	38·3	60·00	40·00
Kolis ...	53·8	46·2	45·7	54·3	46·12	53·88
Artisans ...	52·8	47·2	54·4	45·6	53·82	46·18
Total ...	56·5	43·5	49·7	50·3	50·93	49·07

The Patidars and the Anavils (Brahmins) are the predominant agriculturist castes in the district. The Kolis are steadily coming up as an important agricultural caste. The Banias, pre-eminently the Jain Banias, who are found in every village as moneylenders, have become owners of land and agriculturists. In the rural community of our survey two-fifths of the Brahmin and Patidar families are nuclear families, indicating that a tendency to break away from the joint-family is in evidence even among the agricultural castes. In the town, on the other hand, the percentage of the Patidar and the Koli joint-families is greater than that in the rural area. The reason for the percentage among the Brahmins being lower is twofold: the sample includes Brahmins other than the Anavils in greater number than the rural sample, and persons who come to the town for employment establish their own household there and even when they are part and parcel of the joint-family they are recorded as nuclear in the Census tabulation of residential units. The percentage variation between the rural and the town joint-families among the Anavils is thus very low.

In the following survey of the family composition of 623 students in Classes X and XI of secondary schools in Navsari taluka the family is related to the occupation of the head of the family:

Caste	Percentage of joint-families	Occupation of the Head of the Family*					
		Agriculture		Salaried		Business	
		Joint	Nuclear	Joint	Nuclear	Joint	Nuclear
Brahmins ...	50·46	34·26	24·52	33·33	47·17	21·29	21·69
Banias ...	48·48	6·25	5·88	21·87	26·47	71·87	61·76
Patidars ...	58·80	75·47	70·00	9·43	16·21	15·09	13·51
Artisans ...	53·65	3·03	10·52	4·55	3·51	24·24	21·05
Kolis ...	58·46	52·63	50·00	25·00	35·18	14·47	7·40
Total ...	53·77	36·11	30·20	20·89	29·86	24·17	22·56

* Only those occupations are included which are pertinent to our discussion.

It is only among the Patidars that three-fourths of the family still pursue agriculture. Among the Kolis half the families do it. The drift towards salaried employment and business among all the castes is significant; in 45 per cent of the joint-families the heads are engaged in non-agricultural occupations.

The general assumption that the joint-family is dying out is invalid. It is strong not only in semi-industrialized towns such as Navsari and Mahuwa, but even among communities concentrated in the big cities—such as the Marwadis which control about 35 per cent of the total cotton and jute industries in Bombay and Calcutta. B. R. Agarwala states: 'The family does not consist of direct descendants only, but it includes cousins, grand-cousins. . . . In one family the youngest member of the family is the grandson of the cousin of the eldest. . . . The characteristics of this joint-family system are that its members live together, take meals at one place (when they are at their native place), perform religious and family rites at one place and collectively, are under the authority of the elder in matters of family and religion, joint investment of capital, joint enjoyment of profits, and of incurring birth, marriage and death expenses from the joint-funds.'

'Religious and ceremonial rites are performed when all the members of the family gather together and the eldest performs the sacred rites.' The *karta* is 'the man who has the controlling voice in the family' and 'he performs all the family and religious rites'. 'The marriages are arranged with the consent of the elder members of the family' and they 'are generally performed at such times and places when all the members of the family can assemble'. Thus the community 'is an outstanding example of the obdurate continuance of the joint-family. . . in spite of industrialization, technocracy and western education and in some respects, rather because of them'.[40] The combination of a number of industries in one or two families necessitates a joint-family organization. It provides capital, for use as and when needed; and it provides managerial personnel to supervise and control. The huge profits made by these industries go to the family, nearly all the partners and shareholders being members of the joint-family. Apart from the economic gains, 'holding many industries is also a matter of prestige which is highly valued by the family'. 'Though industrialization and the consequent technocracy of the modern age have not been able to break up the joint-family among the Marwadis', recent income-tax legislation with its super-tax provisions has produced stresses and strains, to which are added the rigours of estate duty.

Before one talks of the ultimate disintegration of the joint-family in India, one should take note of a very peculiar reversal of attitude which often occurs. Even when a man leaves the parent family to start his own independent household, in course of time when his sons get married they bring their wives to live in his family and a new joint-family is thus started. It is difficult for successive generations to break away, such is the power of the ideal which expects sons and grandsons to provide their elders with the necessities of life and to care for them in their old age. The moral obligation is also strong which enjoins a married son to help his parents, economically and otherwise, in bringing up his younger brothers and sisters, in educating them, and in settling their marriages. A person who fails in these duties is talked of as faithless and henpecked, not only by his relatives but also by the other members of his caste and by his neighbours. The institution of the joint-family is thus perpetuated.

In order to understand the persistence of the joint-family we must also appreciate the loyalty of its own members. They make great efforts to be present at the time of performance of various *saṁskāras*, initiation and marriage being the most important *saṁskāras* today, at celebrations of *vratas*, and at the time of serious sickness or death in the family. What with economic hardship and busy city life, it is becoming increasingly difficult for members to come together in this way; but the onus of doing so is as strong as ever, as is the sense of loyalty that ensures that it is done.

The Nambudiri Brahmins of Malabar used to allow only the eldest son to marry within the caste. Other sons formed alliances or consorted with Nair women, and the Nairs considered such alliances with Nambudiris a mark of prestige. But the wife and children of such alliances were looked upon as strangers in the Nambudiri *illom*. The Nambudiri youth had no responsibilities to his children born to his Nair consort nor had he any concern for their education or marriage. As their touch polluted the Nambudiris, these children had to live in their mother's *tarwad* and they depended on it for maintenance and for all the amenities of life. Impartibility of the *tarwad* was thus ensured by this matrimonial arrangement of the Nambudiris.

Tension on the part of young men in the family who loved their wives and children, and wanted to lead a family life as others did, led to an explosive situation. A silent revolt gave rise to a movement calling for the reform of traditional norms, and this revolt gained in strength when it found expression in literature. The Madras Nambudiri Act of 1933 sought to bring about adjustment in the traditional law to meet the aspirations of the young men and women. It gave every Nambudiri male member a right to marry a girl from his own caste and facilitated such unions by permitting polygyny only in such cases “where the wife was afflicted with an incurable disease for more than five years, where the wife had not borne him any child within ten years of her marriage, (or) where the wife had become an outcaste'. Polygyny in other cases was made punishable with fine. 'It also gave the right to any major Nambudiri female to have her marriage performed and recover the marriage expenses and dowry.' The emergence of families of junior members of an *illom* brought about significant convulsions in the *illom* organization. Previously the junior member had looked upon the children of his eldest brother as his own and had abided by the discipline of the *karnavan*, the manager of the *illom*. He now began to take an interest in his own wife and in the management of his own home, which he started in a separate building or portion of the *illom*. The Act further conferred upon every member of an *illom*, whether male or female, an equal proprietary interest in its property. 'The right of individual partition of the *illom* property is provided to any member of the *illom*, male or female, provided such a male member whose wife is a member thereof demands separation from the *illom*.' The division is on a *per capita* basis. The shares of the husband and wife are allotted to them jointly. The property of an unmarried daughter reverts on her death to her parents or, if there are none, to her brothers and sisters in equal shares, or in the last instance to the *illom*. On the death of a Nambudiri his self-acquired or separate property is shared equally by his widow, sons, unmarried daughters and the sons of his pre-deceased sons. In the absence of these heirs the property devolves, in order, on his father, mother, brothers and sisters, maternal cousins, sisters' children, etc. 'One half of the self-acquired or separate property of a Nambudiri male who has contracted a marriage with *marumakkattayi* female devolves on the relations of the wife mentioned in the Marumakkattayam Act and if the intestate has left no heirs according to his personal law the entire property devolves on the wife's side (his children and lineal descendants in the female line).' The separate property of a married woman dying intestate goes to her children in the first instance; then, in order to the children of pre-deceased sons, those of pre-deceased daughters and her husband. In the absence of these near heirs it devolves on her parents, brothers and sisters, their children and lastly on the relations of her husband.[41] Nambudiri youths are not generally highly educated, and consequently the impact of the Act on the disintegration of *illom* is not significant. The intention of the Act was to meet the aspirations of the Nairs, among whom the movement for disintegration of the *tarwad* was a long one and had passed through several stages.[42] But it led to similar legislation which was conducive to the disintegration of the *illom*.

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THE MATRILINEAL FAMILY

THE NAIRS IN KERALA AND THE KHASIS AND GAROS IN ASSAM are matrilineal peoples. In the south-west, however, the matrilineal organization differs from that in the north-east. Even in the north-east the Khasi family is distinct from the Garo family.

A Nair family, or *tarwad*, consists of a woman and her sons and daughters, the children of those daughters and so on. The sons' children do not belong to that *tarwad* but are affiliated to the *tarwads* of their consorts. The property belonging to the *tarwad* is the property of all the males and females that compose it. But as the property of a *tarwad* is impartible, and as the individual members are not entitled to enforce partition, the eldest male member of the *tarwad* is entrusted with the management of its property and affairs and he is known as a *karnavan*. If the most senior is incapable of holding the office due to ill-health or senility, the man next senior to him becomes the *karnavan*. On his death he is succeeded by the next senior male irrespective of the branch of the family to which he belongs. Theoretically, partition may be effected by common consent; but as any member can resist partition, the *tarwad* continues to be joint and no member can claim division as a matter of right. The rights of junior members of the *tarwad* are in practice the rights of maintenance. They are co-owners, however, with a right to see that the *tarwad* property is duly conserved and they can therefore object to any alienation of it by the manager, *karnavan*, not made with the consent, expressed or implied, of all the members, women as well as men. But this right of maintenance is regulated by one important fact, namely joint living ; i.e. the junior members are not entitled to maintenance unless they live in the family house. To qualify for maintenance when they live separately they must prove that it was misconduct or ill-treatment by the *karnavan* that forced them to live outside the *tarwad* house. If it is inconvenient for all the members to live together in the same house, separate living with the consent of the *karnavan* entitles a person to maintenance.[1] Unauthorized alienation or mismanagement on the part of a *karnavan* is sufficient legal cause for his removal from the managerial office. 'But in actual practice, owing to the conflicting decisions of our courts, it has become rather difficult and unsafe to deal with the *karnavan* of a Marumakkathayam *tarwad*.'[2] The *karnavan* commands such great authority in the management of the *tarwad* that he may in effect be called the absolute ruler. 'It is his right and duty to manage alone the property of the *tarwad*, to take care of it, to invest it in his own name (if it be movable) either on loans, on *konan* or other security, or by purchasing lands in his own name and to receive the rents of those lands. He can also grant land on *konan* by his own act or on *otti* mortgage. He is not accountable to any member of the *tarwad* in respect of the income of it, nor can a suit be maintained for an account of *tarwad* property in the absence of fraud on his part. He is entitled in his own name to sue for the purpose of recovering or protecting the property of the *tarwad*.* None of his acts in relation to the above matters can be legally questioned by the *tarwad* if he has acted in good faith. If any of his acts have been done *mala fide,* they can be questioned by the members of the *tarwad* and he may be removed. His management may not be as prudent or beneficial as that of another manager would be, but unless he acts *mala fide,* or with recklessness or utter incompetency, he cannot be removed from the management.' 'The incapacity contemplated is physical incapacity, such as blindness, lunacy or any other such incurable disease as leprosy.' As for *mala fides,* Holloway J. said: 'I do not agree with the subordinate judge that one act of misfeasance on the part of a *karnavan* is enough for the court to take action in the matter. To warrant such a proceeding there must be evidence of a course of conduct on the part of the *karnavan* of a kind tending to defeat the very purpose for which the *tarwad* is in existence.'[3] The scale of expenditure to be adopted and its distribution among the different members is a matter wholly within his discretion. No junior member can claim any specific share of the income or even require that his maintenance from the family outlay should be in proportion to the income. An absolute discretion in this respect is vested in the manager, so much so that 'other members of the family have rather rights out of the property than rights to the property'.

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* In Travancore, he alone has this right.

When a *tarwad* grows unwieldy it often splits into smaller family units called *tavazhis*, the number of which depends on the main female lines, with the consent of the members of the *tarwad*. A *tavazhi* in relation to a woman is 'the group of persons consisting of a female, her children and all her descendants in the female line'. The property of the *tarwad* is divided equally among the *tavazhis per stirpes*. The *tavazhis* so formed are thus family units with community in property. While the members of a *tavazhi* thus cease to have legal right to the property of the parent *tarwad*, their kinship ties with it continue. All members of a *tavazhi* retain their *tarwad* names. As members of the *tarwad* they observe the rules of exogamy and marry outside the *tarwad*. Similarly, they observe the rules of pollution and consider themselves impure for fourteen days on the death of any member of the *tarwad*. A partition made in this manner, for the sake of convenience, thus does not affect the right of the individual member to his *tarwad* or lead to the severance of his kinship ties with the paternal *tarwad*.

A member of a *tarwad* may make separate acquisitions and dispose of them as he pleases during his lifetime. Anything that remains undisposed of at the time of his death used to form part of the *tarwad* property. Of late, however, there has been a tendency of the courts to declare such property to lapse to the nearest line in preference to the joint property. The *tavazhi* is thus becoming more firmly entrenched, creating conditions for the disintegration of the *tarwad*.[4]

In the north-east of India the matrilineal family organization differs, as we have said, in many respects from the matrilineal family organization in the south-west. As the family organizations of the Khasis and the Garos in the north-east also differ from each other, the two patterns may be described separately.

The Khasis have matrilocal residence and matrilineal descent. Participation in the family religion and the common sepulchre, where bones of the members of the family are interred after death, are the two elements that bind the members together. As descent is matrilineal, only the children of the females of the family can become members of the family. Property is transmitted through the female and is held by the females alone. Whatever a male member of the family earns belongs to the family, *iing*, to which he belongs, and either goes to his mother or is inherited by his sister and her female descendants. The children of a male child do not belong to the family. The youngest daughter, *ka khadduh*, in a Khasi family is in charge of the family religion. She cremates her mother and inters her bones in the common sepulchre. According to P. R. T. Gurdon, the youngest daughter gets the family house and the lion's share of the family property including the family jewellery and the greater part of what the house contains. Because the house is a place of family worship the youngest daughter becomes its custodian; but she cannot regard it as her property as she cannot sell it without the unanimous consent of her sisters. So long as she continues to lead the family in worship, she is in charge of the house and the property. But if she should change her religion or commit an act that is tabooed, she has to hand over the charge of the family religion to her next sister. Gurdon has suggested the possibility of partition of the family property. The role of the youngest daughter as a family priestess rules out, however, any such possibility. From the rule of inheritance which Professor Chattopadhyaya has given, it seems that property falls to the youngest descendants in succession. It is only when the female in charge of the property has no issue that it passes to her next elder sister, and to that sister's daughter after her. It is clear from this rule of inheritance that there is no division of property. The youngest daughter is merely the custodian of the property, which is primarily meant for the continuation of family worship and the performance of the bone-burial ceremony. The other female members set up their own houses in the village after marriage, and maintain themselves with what they and their husbands can earn. The Khasi family therefore is not a big *tarwad* as is the Nair's but is a small joint-family of three or four generations. But its essential characteristic is that the family property is indivisible. This interpretation of the Khasi family organization is also borne out by K. Cantlie: '*Ka khadduh* is the custodian of the family property, not the full heir in the sense known to other systems of law, but a limited heir. Members of the family who are unable to earn for themselves and have no children to earn for them have the right of being fed at the *iing-khadduh*.'

Gurdon has suggested that the sisters receive a share in the property, and so has Cantlie. 'The expenses of this ceremony (bone-burial) are considerable and for this reason she gets a larger share of property or in some cases a piece of family property in addition and apart from her separate share.' It is possible that this refers to the income from land which belongs to the *kur*, clan. *Kur* land is leased out to various persons and the proceeds are divided by the *karnavan* among the different houses of the *kur*. Every married daughter who lives in a separate house is entitled to one share. If this interpretation is correct, the Khasi family organization has two aspects. The family in the widest sense, *kur*, has its own sepulchre and property in which all the female members who have set up separate houses of their own have equal rights. There is within this extended family a smaller family group, *iing*, in which property is indivisible and is managed by the youngest daughter, who is succeeded by her youngest daughter, who in turn is succeeded by her youngest daughter, and so on. These smaller units differ from the *tavazhi* of the Nairs in that they are not completely divorced from the main family group as far as property rights are concerned.

Khasi family law favours a trend towards a matriarchal organization, but in its operation the extended family, *kur*, is broken into small families, *iings*, which again are federated into *kur* by economic interests and religious sentiments. The distinctness and interrelation of *üngs* and the *kur* can also be seen in the fact that the exogamous restrictions are first defined in terms of *kur* and are then further extended in terms of *üng*.[5]

Among the Garos, too, descent is matrilineal and residence matrilocal. Property passes through the female and is held by the female. But all female members do not share in the family property. Parents appoint one of their daughters as heir, *nokna*, and she need not necessarily be the eldest or the youngest, the eldest generally being avoided. No other daughters have any claim on the family land, house, household utensils, agricultural implements, cows, bullocks, etc. They are allowed to live in the family house until marriage, and after marriage they set up their own establishment on the land in the village given to them. In return, the *nokna* is bound to bear all expenses of the *delingson* ceremony, the ceremony after death. If there are no daughters to inherit the property, the woman will ask one of her sisters to give one of her daughters in adoption, and the latter is under an obligation to comply with the former's request. In the absence of such a relative, any girl from the *machong*, extended family, is adopted.

Although the woman owns the property, it is controlled by her husband. He 'has full use of her property. He cannot will it away, but otherwise his authority with regard to it is unquestioned.' If his wife dies before him, his wife's relations must provide him with another wife, who steps into the shoes of the deceased *nokna* in order to enable him to continue his control over the property. Similarly, 'should a woman be unfaithful to her husband and he divorces her, she would not be allowed to retain possession of the family property and her husband would have no right to it. Here, as in the case of a widower, another wife would be chosen for the husband, and through her he would continue to enjoy the use of his first wife's belongings.' Likewise, if the *nokna* is not on good terms with the husband, and the village elders fail to bring about a reconciliation, her husband is not divested of his control of the family property ; he is supplied with a girl from the family of the *nokna* who now becomes the *nokna* and his control continues as the husband of the *nokna*.

When a man dies before his wife, his wife continues to own the property, but she cannot control it. Her daughter, who has become the *nokna,* may be married, but her husband cannot get control of the property owned by the *nokna's* mother. The *nokna's* husband, therefore, marries his mother-in-law and thus, as her husband, controls the property. One man thus becomes the husband of both the mother and the daughter, and is inclined to devote his attentions to the mother because she is the owner of the property. Very often the girl divorces the husband and leaves him to her mother.

But it is not only the daughter who is thus harassed by this peculiar institution of property among the Garos. The widow is placed in a similar predicament if the *nokna* is not married, and if there is no male in the *machong* within which the widow is then supposed to marry ; for the widow will not then be allowed to marry anybody because marrying outside the *machong* would mean for the *machong* the loss of control for ever. She is thus forced to remain single. This peculiar trait of the Garo institution of property makes marriage with the mother's brother's widow possible and sometimes inevitable among the Garos.[6]

Among the Garos, a *nokna* is bound to marry her father's sister's son. If there is no father's sister's son she must marry any male from his family and, in the absence of such a person, any male from his *machong*. When there is no male available in the *machong*, the *nokna* is permitted to marry into another *machong* on the understanding that her successor will marry into the original *machong*. One *machong* may thus have perpetual control over the *nokna* of another *machong* and through her over its property.[7]

While the British judiciary reacted adversely to the continuance of the Hindu joint-family, it contributed greatly to the persistence of the Nair *tarwad* and thereby of the matrilineal Nair family organization. The British courts accepted the maxim that impartibility and Marumakkattayam are the customary laws of Malabar, and their decisions reinforced these ideals. The role of the British judicial system was well described by J. D. Mayne in 1878. 'Even in Malabar I have witnessed continued efforts on the part of the natives to cast off their own customs and to deal with partition, alienation and demise, as if it were governed by the ordinary Hindu Law. These efforts were constantly successful in the provincial courts, but were invariably foiled on appeal to the Sudder Court at Madras, the objection being frequently taken by an English barrister. It so happened that during the whole course of this silent revolt the Sudder Court possessed one or more judges, who were thoroughly acquainted with Malabar customs, and by whom cases from the district were invariably heard. Had the Court been without such special experience the process would invariably have gone on with such rapidity, that by this time every Malabar *tarwad* would have been broken up.' Mayne is amply borne out if we remember that as early as 1857 T. Madhav Rao, Dewan of Travancore, proposed to legislate for individual partition.[8]

The Malabar Marriage Act of 1896 contributed to the stability of the Nair marriage by providing the right of maintenance to wife and children. The Malabar Wills Act of 1898 recognized the right of a Nair to testamentary disposition of his self-acquired property to persons of his choice who were mostly his wife and children.[9] The influences that have worked on the Hindu family have since then also acted on the Nair *tarwad*, and the process of disintegration has gone on since the beginning of this century.

The matrilineal family organization gives rise to conflict between two loyalties, the matriarchal and the matrimonial, and this conflict is now heightened. The *karnavan's* wife, *ammayi*, who stays in his *tarwad*, is always on the look-out for opportunities to exact from the *karnavan* as much as she can for herself and her children. The love which he bears for his wife and children often prompts the *karnavan* to be unmindful of his duty with regard to the rightful claims of his heirs. 'The practice of giving to his children, by fair or foul means, seems to have gathered momentum in the latter half of the 19th century. The cases of alienation of property by the *karnavan* were on the increase.'[10] The *karnavans*, on their part, as often charged the other members with diverting the substantial part of their acquisitions to meet the needs of the *tarwad*. The dereliction of duty by the *karnavans* must have been great enough to provoke the urge for partition which J. D. Mayne witnessed in 1878 and to which Mateer gave expression in 1883. During the period 1887-1906, 4,365 suits were filed by junior members of the *tarwad* for cancellation of alienations made by *karnavans*, which in 2,046 cases were wholly set aside and in 619 cases partially. During the same period 67 suits were filed to set aside attachments of *tarwad* properties by *karnavans* for their debts and 142 for the removal of *karnavans*, of which 29 of the suits in the former case and 62 in the latter succeeded; in 6 cases attachments were partially upheld and in 12 the *karnavans'* powers were limited. And all these 4,574 cases were in the Travancore courts alone; to them must be added the innumerable cases which were settled out of the courts. During the years 1886-96, 1,367 suits were brought against *karnavans* for making gifts to their children (in 1886, 293; in 1891, 473; in 1896, 601), revealing the increase in this practice. Within the same period 871 petitions were made by junior members for allotment of maintenance and 1,161 for partition; and they too indicated a rising trend (205, 281, 385; 301, 344, 516). 'Every suit by the junior members for alienation of the *tarwad* property made by a *karnavan* was a declaration of want of confidence in him whatever the judicial decision in these cases.' With this background it is easy to understand why in 1907 K. Parmeswaran Pillai wrote: 'Partition is therefore the only panacea for the existing evils. It has besides the negative advantage of putting an end to the class litigation which is the bane of Malabar Tarvads . . . and directing the descent of property in the proper line.' The innumerable criminal assaults on the *karnavan* during the period before the Nayar Regulations indicate that the *tarwad* was, as Kesava Dev put it, 'a volcano within and could burst at any moment'.[11]

A Nair woman who lives with her people has the right of maintenance in her *tarwad* property. But she needs many more things besides maintenance, and the *tarwad* is not legally bound to provide her with all of them. She looks to her husband for the satisfaction of many of these needs, and as the century progresses and standards of comfort become higher, so her reliance on her husband increases. Husband and wife are thus drawn closer to each other, and relations between them which were formal under the old matrilineal organization become more personal. Their children also bring them nearer to each other. The *tarwad* being unusually large, it is difficult for the *karnavan* to see that all children in the *tarwad* receive proper care and education. Human nature being what it is, an invidious distinction is bound to be made between the children of the *karnavan* himself and those of other members. It is more pronounced when the *karnavan* is weak and is guided by the more selfish members of the *tarwad*. Besides the tension it creates among the members of the *tarwad*, the women in particular cannot remain unconcerned nowadays when pressure of population on the land and a comparatively high rate of literacy among the Nairs have driven many of them to towns and cities as doctors, lawyers, teachers, clerks, or to serve in the police, armed forces or government offices, and the children's education has become the main concern of the parents.

The Travancore Nayar Regulation of 1912 sought to relieve the mounting tension by conferring property rights on a man's wife and children. 'On the death of a Nair male, leaving him surviving a widow or children, or both, she or they shall, if he has undivided Marumakkathayam heirs, be entitled to a half-share in self-acquired or separate property left undisposed of at his death, and, if there are no such heirs, such widow or children or both shall be entitled to the whole of such property.' 'If he has left neither widow nor children, the whole of his self-acquired or separate property shall devolve on his mother's *Thavazhee*, and in the absence of members in such *Thavazhee*, on the *Thavazhee* of his grandmother, and so on in order, on the *Thavazhees* of his female ascendants, the nearer excluding the more remote, provided that he is not divided from such *Thavazhee*.' The Act thus envisaged the break-up of the *tarwad* into *tavazhis*, family units with community in property. Similarly, 'on the death of a Nair female, her self-acquired or separate property shall devolve . . . on failure of all heirs in the descending or ascending female line, . . . on her husband, if he is a Nair '.[12] The powers of the *karnavan* were likewise restricted by the Regulation. No permanent alienation of the *tarwad* properties could be made by him ' except with the written consent of all the major members of a *tarwad* '. The Act did not go far enough to satisfy Nair aspirations and agitation was continued in a more intensified form to secure the right of partition of the *tarwad* property. ' The cry for these changes,' said P. Thanu Pillay, while moving the Travancore Marumakkathayam Bill of 1923, ' is so loud and persistent and so large in volume that it may be safely taken to be the deliberate desire of the community as a whole . . . though there is still a negligible minority opposed to the change.' The Nayar Regulation of 1925 conferred on every adult member of a *tarwad* a right to claim his or her share of the properties of the *tarwad*, subject to certain limitations. All the members of the *tarwad*, majors and minors, are now entitled to equal shares. Until partition no member of the *tarwad* has a definite share in *tarwad* properties, which can be transferred, inherited or seized in execution. The Regulation further conferred on every member of a *tarwad* the right of maintenance from the *tarwad* property whether he lived in the *tarwad* house or not. ' Within five years since the passing of the regulation as many as 32,903 *tarawads* availed themselves of the opportunity ' of partition.[13]

The situation may be summed up thus: The *tarwad* property is no longer indivisible. The authority of the *karnavan* in the management of the *tarwad* property is now limited. The members of the *tarwad* are entitled to maintenance even outside the ancestral house. Ancestor-worship of *karnavans*, mother's brothers, which used to strengthen the unity of the *tarwad*, is no longer common.

The Cochin Nayar Regulation of 1920 made more or less the same change in the laws of marriage, inheritance, succession and adoption for Cochin State as the Regulation of 1912 did for Travancore. The Madras Marumakkathayam Act of 1933 provides for partition of the *tarwad* into *tavazhis*, restricts in a large measure the freedom of the *karnavans* in the management of *tarwad* properties, recognizes children and lineal descendants in the female line as preferential heirs to the *karnavan's* mother's *tavazhi*, and enlists a male child as an equal sharer with a female child in his self-acquisitions. As a result of legislation only 17 *tarwads* were declared indivisible up to 1942 in pursuance of the law; and most of the *tarwads* registered as indivisible were royal families. Thirty-three partition suits were filed in the district munsif court of Trichur in 1942, 52 in 1947 and 51 in 1951.[14] The Mapillah Marumakkattayam Act of 1939 grants a person the right to ask for partition. The property acquired by partition is governed by the Islamic law of inheritance.[15] On the formation of Kerala after the reorganization of states the Travancore Nayar Regulation was extended to the whole state by the Kerala Nayar Act of 1958, with the advantage that the limitations against a claim for partition imposed in the old Regulation were dispensed with.[16]

The Hindu Succession Act of 1956 enjoins that when a Hindu governed by Marumakkattayam law dies, his or her interest in the property of a *tarwad* or *tavazhi* shall devolve by testamentary or intestate succession under this Act. Interest here implies the share in the property that would have fallen to the person if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *tarwad* or *tavazhi* then living, whether he or she was entitled or not to claim such partition under Marumakkattayam law. The share is inherited by a person absolutely. The devolution of property in this case is governed by the same rules that govern inheritance of property in the Hindu joint-family. The property of a female dying intestate devolves (*a*) firstly, upon the sons and daughters (including the children of any predeceased son or daughter and the mother), (*b*) secondly, upon the father and the husband, (*c*) thirdly, upon the heirs of the mother, (*d*) fourthly, upon the heirs of the father, and (*e*) lastly, upon the heirs of the husband. Any property inherited by the deceased from her husband or from her father-in-law shall devolve in the absence of any son or daughter of the deceased upon the heirs of her husband.

The impact of the various forces on the matrilocality and the matriliny of the Nairs can be more precisely assessed by investigations of the Nair *tarwads* as they exist today. We have two analyses available at present, one by K. Raman Unni[17] in two villages in the Walluvanad taluk of south Malabar, nine miles away from the nearest town and railway station, and the other by Fr. J. Puthenkalam of the Nairs in urban areas in Kerala. Unni found that of the 126 *veedus** in the villages, 116 have only one *tavazhi* in each, 7 have two *tavazhis* and 3 have three or four. The fact that about 92 per cent of the *veedus* have only one *tavazhi* shows 'the extent of atomization of tharavads in the last two to three decades'. Again, 'in the seven two-tavari veedus it is not entirely kinship or joint-family sentiment which keeps the two tavaris together, unpartitioned. In several of these veedus there is no grown male member to manage if the tavari separates to form a veedu, or the grown males are employed in towns. . . . In the veedus with three and four tavaris some tavaris are settled in far away places with the husbands of the women members. . . . Being wealthy by their new establishments they do not claim their share of property from their maternal veedu. . . . A feeble joint-family sentiment appears to be prompting them not to initiate a partition of their ancestral veedu.'

While the emergence of the single *tavazhi-veedus* is thus on the increase, matrilocality does not appear to be undergoing any adverse change. Nair marriage was matrilocal. The matrilocality of the Nair woman gave rise to the custom of visiting husbands. The husband visited his wife at her place at night after dinner and returned to his place in the morning before breakfast. According to Unni's investigation, of the 165 husbands in 126 *veedus*, 84 are visiting husbands, and 12 who are employed away from the village visit their wives at their *tarwads* when they return to the village for their annual holiday. In 44 cases wives stay with their husbands and in 25 cases husbands stay with their wives. In 10 of the 25 cases of uxorilocal** husbands, the woman stays in the ancestral *veedu* inherited by her *tavari*, at times with her unmarried sister or young brother, and her husband stays with her permanently and manages the affairs of the *veedu*. In 8 further cases the exact nature of the household is not given but it is indicated to be a type in which both the husband and the wife live together in the wife's village and probably the husband manages the affairs of the *veedu.* In 7 cases the husband is either idle, invalid or in poor circumstances and stays with his wife. Thus in 18 out of the 25 uxorilocal *veedus* the husband is in charge of the affairs of the *veedu.*

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* 'The dwelling place of a small family is called *veedu*, which literally means a dwelling house and is also generally used in that sense. The same term is often used synonymously with family.'—Unni, 'Visiting Husbands in Malabar', *Journal of the M.S. University of Baroda*, 1956, p. 40.

** *Uxorilocal* means that the husband stays with the wife in her *veedu* with her matrilineal kin or in their neighbourhood.

As for the 44 virilocal* wives, one stays in her husband's *veedu* with his old mother to help her in her household work, there being no young woman member to do it and her husband being away for employment. Two other wives live in the *veedus* of their husbands, who, in the absence of the senior members gone out of the village for employment, manage the affairs of the *veedu.* In another 29 cases the male members go out for employment and their wives live with them during their stay in the town. 'When the husbands return to the village on periods of leave the wives usually stay alternately for brief periods in their veedus and their husband's veedus.' When the husbands retire, nearly half of them will be, in all probability, uxorilocal. In the remaining 12 cases of virilocality the husband and wife live in a new house built by the husband, generally in the wife's village, before or after partitioning their respective family property.

This analysis brings out certain factors which lead to virilocality. They are: employment in a town, inability of the husband who is a manager of a *tavari* to visit his wife's place situated far away, invalid condition of his mother or elder sister, and prestige value. There are, besides, certain conventions, or social etiquette, among the Nairs. 'The existence of an unmarried sister in a veedu with no elderly woman to look after her provides a fertile field for gossip.' The absence of any grown-up female kin in the husband's *veedu* thus necessitates his wife's stay in his *veedu.* The traditional pattern of relationship between a man and his younger sister is one of strict avoidance. If a man is ill for a long period and has no elder sister or mother to pay constant and close attention to him, the wife generally stays with him and does it. Conflict between two sisters in a *veedu* may be another reason for a woman to take refuge in her husband's *veedu*.

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* *Virilocal* is used when the wife stays with the husband either in his *veedu* or in a separate *veedu* in the neighbourhood of his kin, or in a town where he has gone for employment.—Unni, *op. cit.*, p. 41, footnote 3.

Some of the factors conducive to uxorilocal residence are as follows: 'The sentimental pattern of matrilineal Malabar requires a male to run a tharavad or veedu.' Only a man is considered capable of managing *veedu* affairs and inter-*veedu* dealings. A Malayalam proverb says: 'If there is nobody to fear and respect, one must respect and fear the pillar of the inner quadrangle.' A wealthy son-less Nair mother would say: 'I have wealth. Since I am not blessed with a son I don't care if the husband I find for my daughter is well-off or not. Somebody must take charge of all this.' The visiting husband is thus, as a Nair proverb puts it, 'a more wanted fellow' in his wife's *veedu*. In the majority of cases husbands are advisers and guides in their conjugal *veedus*. In rare cases a husband may even become a dictator, especially when he has a strong personality and has proved efficient in directing the affairs of the wife's *veedu*, or happens to be the husband of the most senior woman in the *veedu*. His presence there is also welcomed if it helps his wife's kin to go to an urban area for employment.

The present situation in rural Malabar is that in the majority of *veedus* the practice of visiting husbands is still prevalent. Husbands do not only visit for a night as they used to, but stay for longer periods, at times extending to two or three days. Many husbands have been assigned important roles in the management of their wives' *veedus*. The wives also go periodically to their husbands' *veedus*, either in the village or in the urban area where the husbands have gone for employment. They thus come into contact with the husbands' matrilineal kin in their *tarwads*. The standardized behaviour-pattern towards the husband's close matrilineal kin, unknown under the old *tarwad* organization, is in the process of evolution on the lines of the one prevalent in the *tarwad*. 'There is also significant social co-operation and a mutual give-and-take attitude between the veedus of the husband and the wife. Consequently there have developed markedly bilateral attitudes.'[18]

'The expectances or duties of a man in the former matriliny placed him far from his own children but nearer to his sisters' sons and daughters, who attended to his affairs and who were his heirs and mourners.' The father, being only a visitor, is not bound by custom to take care of his children in evidence of his interest in them. In the case of Nambudiris, 'the children could not address him as father: they did not touch him without fear of polluting him'. 'Today father is a recognized principle and an immediate ingredient of the matrilineal kinship system. It is now the father who officiates at the Naming and Feeding ceremony of the child (*chorunu*), puts it to school and arranges for the marriage at his or her suitable age. The wife and children have a right to claim maintenance from him. Further, his children are his heirs and mourners. The father has a legal authority over his children.' It is perhaps in this growing interest of a man in his own sons that the situation in which children regard their maternal uncle as an enemy arises. For, according to M. S. A. Rao, 'instances where the fury of sisters' children has ended in the murder of the mother's brother are not rare'. Children theoretically belong to the lineage of their mother and take the name of their mother's *tarwad*; yet the practice of taking the father's personal name and avoiding the *tarwad* names of either father or mother is gaining popularity, especially in Travancore. 'But the father who is now the agent at many of the ceremonial occasions in the life-cycle of his children has not replaced the *kāraṇavan* with respect to the traditional authority, power, fear and respect.'[19]

The behaviour-pattern between the other members has undergone similar changes. The relationship between a person and his elder brother was once formal and was determined by the principle of respect for seniority. This formality is now disappearing. Younger brothers of the present generation do not observe the old subordination—'and even if they do just out of regard for the elder member they are not sincere'. The behaviour-pattern of avoidance between a man and his younger sister has altogether disappeared.[20]

Puthenkalam found during his investigations that about two-thirds of the *tarwads* in north and central Kerala (62·3 per cent and 66·4 per cent) and seven-eighths of them in south Kerala (88·4 per cent) were divided into either *tavazhis* or individual units. Elsewhere he says: 'Tharawads of the old type are today few and far between. To the best of our knowledge there are no joint undivided Tharawads in Travancore or Cochin. The only Tharawad which sought permission to remain joint and undivided at the time of the Travancore Nayar Regulation (1925) revoked its decision and was partitioned in 1947.' Even with *tarwads* breaking down rapidly, the emotional link with the *tarwad* is not completely severed. 'The members come together once a year for a common feast on the occasion of the *Theiyattam* ceremony in the Kalari, and marriages and other feasts of the various branches used to be conducted, though not always now, at the Tharawad house.' 'The members of the lineage engaged in co-operative activities at all the major life-crises; pre-puberty rites, *sambandham* and funerals. This was obligatory.'[21]

E. Kathleen Gough considered that the change in occupations among the Nairs played a major role in the disintegration of their *tarwads*: 'From the statistical data collected in two village surveys, it appears that the stage of disintegration of the traditional lineage system and of development of the modern bilateral system depends on the degree of absorption of the inhabitants into the modern economy of cash crops, cash wages and urban occupations, and on the consequent degree of social and spatial mobility.'[22]

While the *tarwad* has been breaking down under the strains and stresses of modern life and new behaviour-patterns unconducive to the maintenance of matriliny are evolving, it is not easy to predict whether the Nairs will in the near future change over to the patrilineal family prevalent in other parts of the country. 'The father . . . has not theoretically or practically replaced the *karnavan* in the wielding of authority. He is not traditionally backed by authority to make himself significantly effective.' Secondly, husband and wife start their own house generally in the wife's village. The husband's share in his *veedu's* property and his privately earned income are merged into the wife's inheritance, and the property of the new family descends to their children matrilineally. Such a family is not always nuclear, as some of the wife's near kin such as an unmarried or a widowed sister, a younger brother or an old or invalid mother continue to stay with her. Sentimental ties, the moral obligations of kinship and expectation that the old dependant may some day leave her property to the children of the couple, all account for such nuclear families adopting the joint-family form. Matrilocality and matriliny persist in rural Malabar. Also, M. S. A. Rao has observed, 'the changes that have come about are neither uniform nor wholesale. They exhibit different shades of intensities in different regions. They are rapid in Travancore and slow in Malabar. Cochin occupies the middle position.'[23]

The Khasi religion, together with its matrilocal residence, checked the development of patriliny even though a Khasi father was allowed to set up his own house and to lord it over his wife to the extent of killing her if it was found that she had been adulterous. Again, the Khasi family organization, governed as it was by economic interests—every Khasi female having her equal share in the ancestral land—and religious rites, including common sepulchre, helped to strengthen and perpetuate matriliny even when social, economic and religious ties existed between the children and their father. There being therefore no scope for the internal evolution of the matrilineal pattern into a patrilineal one, the family organization of the Khasis remained unaffected until it received from the missionaries the impact of a more advanced culture and until the development of urban areas in the vicinity of the Khasi and Jaintia hills.

When Christianity came, the Khasi family was faced with the question whether a *ka khadduh* could hold the family property if she was converted to Christianity. In 1918 the Government ruled that Christian converts should be allowed to inherit the ancestral property, for tradition in the Khasi and Jaintia hills 'would not allow British courts to enforce a custom which would exclude any person from inheritance merely by reason of his or her change of religion. If the property to be inherited is not the sole and absolute property of the holder, but is subject to an obligation to perform certain acts, probably . . . the heir would be bound to make necessary provision for the due performance of such acts.' Property is thus divorced from religion, and the *ka khadduh*, the custodian of the property, is regarded as the owner of the property.

The disintegrating process is now further accentuated by the development of Shillong as an urban centre in the midst of the Khasi environment. Educated Khasis are shifting to the town, engaging themselves in trade or professions and amassing property independently of their wives. A man, 'provided that he adequately supports his wife and children, can dispose of the surplus by gift to his own relations or in any way he likes'. The general practice is for the man to bring his wife to live with him in the town. Matriliny and matrilocality are thus affected by the development of Shillong. The impact of this process will be felt more and more as the years go by because the Khasis will have to shift more and more to this urban area not only for the prospects it holds but because there is not sufficien land for cultivation in their hills.

APPENDIX

THE HINDU SUCCESSION ACT, 1956

THE FOLLOWING IS A SUMMARY OF THE HINDU SUCCESSION ACT OF 1956, which brought about fundamental changes in the law of inheritance and which is destined to affect the nature and constitution of the Hindu family in particular and of Hindu society in general:

1. The Act applies to any person in India (excepting the State of Jammu and Kashmir), who is a Hindu by religion in any of its forms or developments; who is a Buddhist, Jain or Sikh by religion; or who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with therein if the Act had not been passed.

2. The Act shall not apply to any property succession to which is regulated by the Indian Succession Act, 1925, by reason of the provisions contained in Section 21 of the Special Marriage Act, 1954.

3. When a male Hindu dies after the commencement of the Act, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with the Act, provided that, if the deceased had left him surviving a female relative specified in Class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under the Act and not by survivorship. Nothing contained in the proviso shall be construed as enabling a person who has separated himself from the coparcenary before the death of the deceased or any of his heirs to claim on intestacy a share in the interest referred to therein.

4. The property of a male Hindu dying intestate shall devolve (*a*) firstly, upon the heirs specified in Class I of the

Schedule. They shall take simultaneously. If there are more widows than one they together shall take one share. The heirs in the branch of each pre-deceased son or daughter shall take between them one share. (*b*) In the absence of any heir of Class I, upon the heirs specified in Class II of the Schedule. The property shall be divided between the heirs specified in any one entry in Class II of the Schedule so that they share equally. (*c*) In the absence of heirs in Class II, upon the agnates of the deceased, one having fewer or no degree of ascent being preferred to the other. Where the number of degrees of ascent is the same or none, the one with fewer or no degrees of descent is preferred to the other. In the absence of preference on either of these grounds the agnates take simultaneously. (*d*) In the absence of any agnate, upon the cognates of the deceased, the preference being governed by the same rules as are applicable to the agnates.

5. Any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner thereof. Property includes both movable and immovable property acquired by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as *stridhana* immediately before the commencement of the Act. Full ownership is not conferred in the case of any property acquired by way of gift or under a will or any other instrument or under a decree or other of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.

6. (*i*) Where a Hindu intestate has left a dwelling house wholly occupied by members of his or her family, the right of any female heir in Class I of the Schedule to claim partition of the house shall not arise until the male heirs choose to divide their respective shares therein ; but the female heir shall be entitled to a right of residence therein: a daughter however is entitled to a right of residence only if she is unmarried, or has

been deserted by or has separated from her husband, or is a widow.

(*ii*) Where an interest in any immovable property of an intestate, or in any business carried on by him or her, whether solely or in conjunction with others, devolves upon two or more heirs in Class I, and any one of them proposes to transfer his or her interest, the other heirs shall have a preferential right to acquire it for consideration determined by the court on application if no agreement is reached by the parties.

7. The property of a female Hindu dying intestate shall devolve (*a*) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband. The children of the pre-deceased son or daughter take between them the share of their father or mother. (*b*) Secondly, upon the heirs of the husband. (However, the property inherited by a female from her father or mother shall devolve upon the heirs of the father. It is the property inherited from her husband or from her father-in-law which shall devolve upon the heirs of the husband.) (*c*) Thirdly, upon the mother and father. (*d*) Fourthly, upon the heirs of the father. (*e*) Lastly, upon the heirs of the mother. Heirs in each category take simultaneously. The devolution of the property upon the heirs in categories (*b*), (*d*) and (*e*), shall be in the same order and according to the same rules as given in paragraph 4 and here.

8. A child born posthumously is entitled to his or her share in the property of the deceased.

9. No person shall be disqualified from succeeding to any property on the ground of any disease, defect or deformity, or, save as provided in the Act, on any other ground whatsoever.

10. The children born to a person after he or she has ceased or ceases to be a Hindu by conversion to another religion and their descendants are excluded from inheritance of any of their Hindu relatives, unless they are Hindus at the time when the succession opens.

11. If two or more heirs succeed together to the property of an intestate they take the property as tenants-in-common and not as joint-tenants.

12. Nothing contained in the Act shall affect the provisions

of any law for the time being in force providing for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings.

13. When a Hindu governed by the Marumakkattayam or Nambudiri law dies, his or her interest in the property of a *tarwad, tavazhi* or *illom* shall devolve by testamentary or intestate succession under the Act. Interest implies the share in the property that would have fallen to the person if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *tarwad, tavazhi* or *illom,* then living, whether he or she was entitled or not to claim such partition under the Marumakkattayam or Nambudiri law. The share is inherited by a person absolutely.

The devolution of property in this case is governed by the same rules as given in paragraph 4 above, with the change that in the absence of the heirs of Class I and Class II it devolves upon his relatives whether agnates or cognates.

If the deceased is a female the property devolves (*a*) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the mother. (*b*) Secondly, upon the father and the husband. (*c*) Thirdly, upon the heirs of the mother. (*d*) Fourthly, upon the heirs of the father. (*e*) Lastly, upon the heirs of the husband. Any property inherited by the deceased from her husband or from her father-in-law shall devolve in the absence of any son or daughter of the deceased upon the heirs of her husband.

14. Persons previously governed by the Aliyasantana law are now governed by the 1956 Act under the same rules and regulations that govern persons following the Marumakkattayam or Nambudiri laws (see paragraph 13).

15. Any Hindu may dispose of by will or testamentary disposition any property (including the interest of a member in a Mitakshara coparcenary property or in the property of a *tarwad, tavazhi, illom, kutumba* or *kavaru*) which is capable of being so disposed of by him, in accordance with the provisions of the Indian Succession Act of 1925 or any other law for the time being in force and applicable to Hindus. This

shall not, however, affect the right to maintenance of any heir specified in the Schedule by reason only of the fact that under a will or other testamentary disposition made by the deceased the heir has been deprived of a share in the property to which he or she is otherwise entitled under the Act if the deceased has died intestate.

16. The Hindu Law of Inheritance Amendment Act of 1929, and the Hindu Women's Right to Property Act of 1937 are repealed by the Hindu Succession Act of 1956.

The Schedule

Heirs in Class I:

Son, daughter, widow, mother, son of a pre-deceased son, daughter of a pre-deceased son, son of a pre-deceased daughter. daughter of a pre-deceased daughter, widow of a pre-deceased son, son of a pre-deceased son of a pre-deceased son, daughter of a pre-deceased son of a pre-deceased son, widow of a pre-deceased son of a pre-deceased son.

Heirs in Class II:

(*a*) father ; (*b*) son's daughter's son, son's daughter's daughter, brother, sister ; (*c*) daughter's son's son, daughter's son's daughter, daughter's daughter's son, daughter's daughter's daughter ; (*d*) brother's son, sister's son, brother's daughter, sister's daughter ; (*e*) father's father, father's mother ; (*f*) father's widow, brother's widow ; (g) father's brother, father's sister ; (*h*) mother's father, mother's mother , (*i*) mother's brother, mother's sister.

Reference to a brother or sister does not include a uterine brother or sister.

NOTES AND REFERENCES

1. *The Hindu View of Life*

1. A. Kaegi, pp. 88ff.; R.V., x 82, 5; 121, 1, 3-4; 129, 2, 3, 7.
2. A. A. Macdonell, *Vedic Mythology*, p. 166; A.V., xviii 2, 21-6.
3. C. Kunhan Raja in *The Cultural Heritage of India*, p. 29; A. Kaegi, p. 70; R.V., ix 113, 7-11; x 14, 8; i 154, 5.
4. A. A. Macdonell, *op. cit.*, p. 169.
5. A. Kaegi, p. 71; E. W. Hopkins, *Ethics of India*, pp. 28-9; A. A. Macdonell, *op. cit.*, p. 169.
6. A. B. Keith, *The Religion and Philosophy of the Veda and Upanishads*, vol. ii, p. 457; S. Das Gupta, pp. 21ff.; P. S. Deshmukh, pp. 349, 369. Macdonell writes: 'Traces of the notion that the sacrifice exercises compulsion not only over gods but also over natural phenomena, without requiring the co-operation of the gods, are already to be found even in the Ṛgveda.'
7. A. B. Keith, *op. cit.*, pp. 455-8, 471; P. S. Deshmukh, pp. 363, 365, 367.
8. A. B. Keith, ibid., p. 473.
9. Ibid., p. 474; A. A. Macdonell, *op. cit.*, p. 169; P. Deussen, *The Philosophy of the Vedas*, p. 324; S.B., xi 2, 7, 33; 16, 1; xii 9, 11.
10. A. B. Keith, *op. cit.*, pp. 463-4; P. Deussen, *op. cit.*, p. 326; T.B., iii 11, 8, 5; S.B., xii 9, 3, 12; x 4, 3, 10; xii 9, 1, 1.
11. R. D. Ranade, p. 7; M.U., i 2, 7-8.
12. S. Das Gupta, pp. 35ff.; R. D. Ranade, pp. 7, 8; S. Radhakrishnan, *The Philosophy of the Upanisads*, p. 24; *The Cultural Heritage of India*, p. 46; Ch.U., v 19-24; iv 1; cf. Kau.U., ii 5: 'Knowing that an endless sacrifice was going on all the while within themselves the ancient sages did not perform Agnihotra.' Br.U., i 5, 1; P. Deussen, *op. cit.*, p. 63; T.B., iii 10, 11, 2.
13. S. Radhakrishnan, *The Philosophy of the Upanisads*, p. 25; P. Deussen, *op. cit.*, p. 343. Cf. M.U., i 1, 4, 5; 'Two kinds of knowledge must be known, the higher and the lower. The lower knowledge is that which Ṛgveda, Sāmaveda, Atharvaveda, Ceremonial, Grammar give. . . . But the higher knowledge is that by which the indestructible Brahman is apprehended.' (Cf. also Ch.U., vii 2.)
14. Cf. also: 'The wise man when once he has seen That (tad apaśyat) becomes That (tad abhavat), because in truth he always was and is That (tad āsīt).' M. Bloomfield, p. 269; Ch.U., vi 2, 1; vii 2, 1, 2; vi 10; Br.U., iv 5, 1, 4; 4, 1, 7; M.U., ii; i 17; S. Das Gupta, *op. cit.*, pp. 48-9; P. Deussen, *op. cit.*, p. 164.
15. Cf. S. Radhakrishnan, *op. cit.*, p. 64, f.n.
16. Ibid., p. 62.
17. Ibid., 59, 64, 66; Ch.U., vi 10. It should be noted that Brahman is immanent and yet transcendent: cf. 'From that full arises this full. Taking away this full from that what remains is yet full.' S. Radhakrishnan, *op. cit.*, pp. 78-9. Cf. also R.V., x 90, 3; Br.U., v 14; iv 3, 32; Ch.U., iii 12, 6, 7.
18. M. Bloomfield, p. 263; Br.U., ii 4.
19. S. Das Gupta, p. 58; M.U., iii 2, 8; P.U., vi 5; S. Radhakrishnan, *op. cit.*, pp. 112-13.
20. S.B., i 9, 3, 2; xi 2, 7, 33; A.B., vii 10; Kau.B., ii 8; v 10; E. W. Hopkins, *Ethics of India*, p. 57; A. A. Macdonell, *op. cit.*, p. 169; P. Deussen, *op. cit.*, p. 325.
21. According to Keith (*op. cit.*, p. 464), 'there are *en route* two fires which try to burn up those whom they should burn, but let pass those whom they ought to let pass'; and there is nothing to discriminate between man and

man. T.B., III 10, 11, 1 ; T.S. II 6, 10, 2 ; A. A. Macdonell, *op. cit.*, p. 167 ; P. Deussen, *op. cit.*, p. 325.

22. 'Stars are also said to be the light of the virtuous men who go to the heavenly world.' A. B. Keith, *op. cit.*, p. 464 ; T.S., V 4, 1, 3 ; S.B., VI 5, 4, 8 ; Br.U., V 10, 1 ; R. D. Ranade, p. 158.

23. P. V. Kane, *History of Dharmaśāstras*, vol. II, part ii, p. 844 and f.n. 1930 ; A.V., V 19, 3, 13 ; R.V., X 14, 8 ; A.V., II 12, 4 ; III 29, 1 ; cf. V.S., XV 54 : 'Join with iṣṭāpūrta (the sacrificer) and him with his iṣṭāpūrta.' 'When a Brahmin guest is allowed to stay in a house without being served with food he destroys the iṣṭāpūrta, the issue and the cattle of the householder.' Kath. U., I 1, 8. T.S., V 7, 7, 1-3 ; T.B., III 9, 14 ; cf. T.B., II 5, 5 : 'May iṣṭa and pūrta last for endless years ; having sacrificed with an offering that is everlasting, a man ascends to the highest and everlasting world.' P. Deussen, *op. cit.*, p. 325.

24. Ch.U., III 15, 5-6 ; V 10, 1-6 ; cf. Bhag., VIII 24-6 ; R. D. Ranade, p. 160 ; S. Das Gupta, p. 54.

25. P. Deussen, *op. cit.*, p. 335 ; A.V., XV 12 ; Br.U., I 5, 16 ; Ch.U., V 10, 5 ; Kau.U., I 2.

26. The theory of transmigration is as old as the Ṛgveda though in a latent form. According to Kunhan Raja, a verse in the Ṛgveda reads : 'Unite with the fathers, unite with Yama in the highest heaven, with the reward of thy sacrifices and good deeds ; free from blemishes, come again here to this home : full of vigour unite with a body.' (*Cultural Heritage of India*, p. 31). According to Ranade, 'the *animus* has been directed to go to the heaven or to the earth according to its qualities (dharma) in Ṛgveda'. (X 16, 3.) Again in I 164, 30 and 38, 'the soul is a moving speedful life-principle which comes and goes, moves backwards and forwards, comes in contact with the body and then moves from it in the opposite direction', and in I 164, 31 : 'the guardian spirit keeps on *returning frequently* inside the mundane regions' (pp. 148, 151).

27. Br.U., IV 4, 11; I.U., III ; Ch.U., VI 9, 3 ; S. Radhakrishnan, *op. cit.*, p. 129.

28. Br.U., III 2 ; IV 4, 2ff. ; R. D. Ranade, p. 155.

29. Cf. Kau.U., I 2 : 'All who depart from this world go without exception to the moon. . . . The moon is the door of heaven. Therefrom they, on being judged of their jñāna, go either by the devayāna or enter upon a new birth whether as a worm . . . a fish or a bird . . . a tiger, or a man or as something else according to their actions and knowledge.'

30. Br.U., IV 4, 1, 2, 6, 7 ; S.B., X 6, 3, 1 ; Ch.U., III 14, 1.

31. E. W. Hopkins, *J.R.A.S.*, 1906, p. 584.

32. R. G. Bhandarkar, pp. 3, 4, 10.

2. *Aśramas*

1. A. B. Keith, *The Religion and Philosophy of the Veda and Upanishads*, vol. II, p. 463.

2. S. Radhakrishnan, *Eastern Religions and Western Thought*, 2nd edition (1940), pp. 352ff., 378ff. ; *Hindu View of Life*, pp. 78ff.

3. K. G. Ghurye, p. 3 : 'The Vedas were first committed to writing some time in the eighth or the ninth century A.D.' A. A. Macdonell, *India's Past*, p. 52 : M. Winternitz, *A History of Indian Literature*, vol. I, pp. 34-5.

4. M., II 150ff. ; K. M. Kapadia, *Hindu Kinship*, pp. 88ff.

5. M., II 194, 198, 200-1 ; G.D.S., II 14, 15, 21 ; Ap.G.S., I 2-28 ; K. M. Kapadia, ibid., pp. 44 f.n., 100, 184, 191 f.n., 252ff., 301 f.n. ; K. G. Ghurye, ch. I ; N. C. Sen Gupta, p. 14.

6. Max Müller writes : 'The texts of the Vedas have been handed down to us with such accuracy that there is hardly a variant reading in the proper

sense of the word, or even an uncertain accent in the whole of the Ṛgveda.' (Quoted by K. G. Ghurye, pp. 17-18).

7. M., ɪɪ 56-7, 69, 88ff., 118, 160, 177-9 ; G.D.S., ɪɪ 13, 15-16, 22 ; Ap.D.S., ɪ 1, 3, 24 ; B.D.S., ɪ 8, 14 ; P. S. Deshmukh, p. 356.
8. M., ɪɪɪ 67ff., 78-9 ; 92-4 ; ᴠɪ 88-90 ; Mbh., xɪɪ 23, 2-5 ; 191, 10, 13.
9. M., ɪɪɪ 107, 110-13.
10. M., ᴠɪ 8ff.
11. M., ᴠɪ 41ff.

3. *The Muslim Social Outlook*

1. A. A. Bevan, pp. 303, 306 ; A. A. A. Fyzee, *Outlines of Muhammadan Law*, p. 12 ; S. Khuda Bukhsh, *Contributions to the History of Islamic Civilization*, pp. 155, 165, 179 ; *Essays Indian and Islamic*, pp. 2, 3.
2. Quran, xʟɪx 13 ; S. Khuda Bukhsh, *Contributions to the History of Islamic Civilization*, p. 163.
3. S. C. Hurgronje, p. 57.
4. D. B. Macdonald, *Development of Muslim Theology, Jurisprudence and Constitutional Theory*, p. 74 ; Abdur Rahim, p. 116.
5. D. B. Macdonald, ibid., p. 82 ; C. L. Ostrorog, p. 21 ; A. A. A. Fyzee, *op. cit.*, p. 17.
6. D. B. Macdonald, ibid., pp. 82ff. ; R. Levy, chs. ᴠɪ & ᴠɪɪ ; Abdur Rahim, pp. 77ff. ; A. A. A. Fyzee, ibid., pp. 23-4.
7. C. L. Ostrorog, p. 24.
8. C. L. Ostrorog, p. 28 ; M. Iqbal, pp. 148-53, 177 ; H. A. R. Gibb, p. 13 ; Abdur Rahim (p. 175) writes: 'Though the Sunni theory does not preclude recognition of a new teacher yet the Sunnis should have been slow to accept any new doctrines radically different from those of their Schools.'
9. H. A. R. Gibb, pp. 91-4 ; cf. Cromer, vol. ɪɪ, p. 136.
10. H. A. R. Gibb, p. 95.
11. M. Iqbal, pp. 157, 162-3, 168-70, 173-6, 178 ; W. C. Smith, p. 36.
12. W. W. Hunter, p. 49.
13. H. A. R. Gibb, pp. 28, 32.
14. W. W. Hunter, pp. 41-2, 38.
15. G. M. Mehkri, pp. 246ff.
16. M. T. Titus, ch. ɪx, p. 223 ; W. W. Hunter, ch. ɪɪ ; A. Yusuf Ali in *Modern India and the West*, pp. 394, 396 ; H. A. R. Gibb, pp. 26ff.
17. W. C. Smith, ch. ɪ ; A. Yusuf Ali, ibid., pp. 394-6.
18. W. C. Smith, ch. ɪɪ, p. 57.

4. *Polyandry*

1. Mbh., ɪ 191, 5, 12ff. ; 195, 5, 28-30 ; 196, 6-8, 13 ; 208, 17 ; K. M. Kapadia. *Hindu Kinship*, pp. 106ff. ; M. Winternitz, *J.R.A.S.*, 1897, p. 737 ; N. K. Sidhanta, p. 123.
2. M. Winternitz, *J.R.A.S.*, 1897; pp. 735, 744ff.
3. J. Muir, *Ind. Ant.*, vol. ᴠɪ, p. 262b.
4. K. M. Kapadia, *Hindu Kinship*, pp. 94ff.
5. K. M. Kapadia, ibid., pp. 99-100 ; R.V., x 18, 8 ; 40, 2 ; A.V., xᴠɪɪɪ 3, 2 ; T.A., ᴠɪ 1, 3 ; Brh., ᴠɪɪ 13 ; A.G.S., ɪᴠ 2, 15 ; 6, 16-18 ; Nir., ɪɪɪ 15.
6. K. M. Kapadia, ibid., pp. 97-9 ; M., ɪɪɪ 55, ɪx 143 ; Amar., ɪɪ 632 ; Kau., vol. ɪɪ, p. 29. Vālī, when he suspected Sugrīva of appropriating to himself his kingdom, drove him off and took his wife as his. Sugrīva sought Rāma's protection and got Vālī killed at his hands. Rāma defended his action by saying that Vālī was unjust to Sugrīva. Vālī did injustice in two ways: first by attributing motives to Sugrīva without judging his action

properly, and secondly by pursuing him to kill him and thus avenge his injustice. Whether Rāma really meant that act of Vālī or his appropriation of Sugrīva's wife as the act of injustice done to Sugrīva is not clear in the Rāmāyaṇa. The appropriation of Sugrīva's wife by Vālī was sure to be condemned according to the new standard of morality. Here, then, we have additional evidence from the Rāmāyaṇa regarding the elder brother's approach to the wife or widow of his younger brother.

7. K. M. Kapadia, ibid., pp. 101-2, 205-6 ; Ap.D.S., II 27, 1-7 ; M., IX 56-7.
8. K. M. Kapadia, ibid., pp. 112, 117 f.n. ; A.V., IX 5, 27-8 ; P. V. Kane, *History of Dharmaśāstras*, vol. II, pp. 614-15.
9. K. M. Kapadia, ibid., pp. 117-19, 102.
10. A.V., V 17, 8, 9 ; IX 5, 27-8 ; R.V., X 18, 7, 8 ; T.S., III 2, 4, 4 ; Brh., VII 12 ; A.G.S., IV 6, 11, 12 ; S.Śr.S., IV 16, 6 ; P. V. Kane, *op. cit.*, vol. II, pp. 614ff.
11. L. D. Joshi, pp. 78, 81.
12. Ibid., pp. 78-80. Fraser thinks that the children were affiliated to their fathers according to their seniority, that is, the first child belonged to the eldest, the second to the second eldest and so on.
13. Ibid., pp. 89ff.
14. Ibid., pp. 111ff.
15. D. N. Majumdar, *The Fortunes of Primitive Tribes*, p. 163 ; R. N. Saksena, pp. 28, 30.
16. D. N. Majumdar, ibid., 164ff. ; R. N. Saksena, p. 30.
17. D. N. Majumdar, ibid., pp. 144, 159-60, 163, 166 ; *Himalayan Polyandry*, pp. 73-4.
18. D. N. Majumdar, ibid., pp. 159, 144 ; *Himalayan Polyandry*, pp. 72, 74.
19. L. D. Joshi, pp. 80, 81 ; D. N. Majumdar, ibid., pp. 145, 147 ; R. N. Saksena, p. 31.
20. D. N. Majumdar, ibid., p. 160.
21. Ibid., p. 172 ; *Races and Cultures of India*, p. 144 ; *A.B.O.R.I.*, vol. XX, p. 226.
22. D. N. Majumdar, *The Fortunes of Primitive Tribes*, pp. 156, 159, 163-4 ; R. N. Saksena, p. 28.
23. L. D. Joshi, pp. 83, 345 ; D. N. Majumdar, ibid., pp. 168ff., 177, 179, 144, 148 ; R. N. Saksena, pp. 17, 18.
24. D. N. Majumdar, ibid., pp. 146, 168, 136 ; *Himalayan Polyandry*, pp. 75-6 ; L. D. Joshi, pp. 83-4.
25. D. N. Majumdar, *The Fortunes of Primitive Tribes*, pp. 145-6.
26. Ibid., pp. 177-8 ; L. D. Joshi, pp. 74-5 : 'Amongst the Rajput Zamindars, who are chiefly Khasiyas, when people bring an offer of marriage to a girl's father, he asks for a certain price, and a part of it is fixed there and then as mama-Jholi or the maternal uncle's share in the price of the bride.'
27. L. D. Joshi, pp. 62ff.
28. Ibid., pp. 69ff. ; cf. D. N. Majumdar, *The Fortunes of Primitive Tribes*, p. 176.
29. D. N. Majumdar, ibid., pp. 138, 150-1 ; P. R. T. Gurdon, p. 112 ; cf. also J. C. Hudson, *The Naga Tribes* (1911), p. 138.
30. D. N. Majumdar, ibid., pp. 116-18 ; H. C. Chakladar, pp. 52ff.
31. D. N. Majumdar, ibid., pp. 156-7, 140.
32. Mbh., I 120-2 ; II 67, 35 ; J. J. Meyer, vol. I, pp. 118ff. In another legend in the Mahābhārata (I 104, 22ff.) Dīrghatamas is said to have declared a new law, that a woman shall be chaste not only during wedlock but even before and after it. K. M. Kapadia, *Hindu Kinship*, p. 51.
33. K. M. Panikkar, *Some Aspects of Nair Life*, p. 272.
34. *Man*, 1932, pp. 269, 78, 79.
35. K. M. Panikkar, *op. cit.*, pp. 293, 264.
36. Ibid., pp. 264, 266 ; A. Aiyappan, *Man*, 1932, p. 78.
37. L. Moore, p. 88.
38. K. M. Panikkar, *op. cit.*, pp. 270-1, 264-5.

39. Ibid., pp. 267ff.
40. L. Moore, p. 74.
41. A song that used to be sung by a Nambissa woman at the time of a Nair's *tali-kettu-kalyanam*:

> The standing lamp made by Musari [brazier] being lighted
> The threads being spun by the Chaliya [weaver]
> Brahmani twisted them into a cord,
> Bound it on the right hand of the Virgin.
> Let the thread remain as constant light.
> Let thou live a hundred years.
> With Bharthavu [husband] and children
> Let children be numerous as paddy is
> Counted and years of life as rice is counted.

appears to substantiate our view that *tali-kettu-kalyanam* was marriage. See M. S. A. Rao, pp. 537-8.

42. R. Briffault, vol. i, p. 710.
43. A. Aiyappan, *Iravans and Culture Change*, pp. 98ff.; *Man in India*, 1935, pp. 108ff. In north Cochin, the Cochin Makkathayam Thiyya Act of 1940 has made polyandry illegal among the Thiyyas which 'include Ezhura, Ehova, Bhillava, Marayan, Thaidan and others recognized as such'. Education and wealth have made the Thiyyas feel that polyandry is 'out of fashion'; they feel slighted when ridiculed as primitive by higher castes for their practice of polyandry. See Prince Peter, *A Study of Polyandry*, pp. 175ff., particularly pp. 183, 199, 234-5.
44. E. Thurston, *Tribes and Castes of South India*, vol. ii, p. 400.
45. M. N. Srinivas, *The Coorgs*, vol. i, pp. 179ff.
46. W. H. R. Rivers, *The Todas*, pp. 515ff., 529, 526, 531, 559, 564, 553, 520ff., 27, 338, 341, 509-10, 514; Prince Peter, pp. 261-2, 264, 267ff., 270, 274. Prince Peter is inclined to believe that 60 per cent of Todas were polyandrous in 1939.
47. D. G. Mandelbaum, *American Anthropologist*, vol. xi, no. iv, pp. 574ff.; vol. xliii, no. i, pp. 21, 23-4.

5. *Polygyny*

1. A.V., ii 30, 2, 5; 36, 4; vi 39; vii 36-8; vi 102, 130-2; R.V., i 124, 7; iv 3, 2; x 71, 4; M., ix 101-2.
2. R.V., 1, 62, 11; 105, 8; x 33, 2; 101, 11; T.B., iii 1, 8, 1; P.B., ii 1, 2; xx 5, 2; S. C. Sarkar, pp. 87-8; B. S. Upadhya, pp. 103ff.
3. Ap.D.S., ii 11, 12, 13; M., ix 81; Kau., vol. ii, pp. 16, 17. Compensation is half the expense of marriage with the second wife.
4. M., v 167-8.
5. M., xi 176; G.D.S., xxii 35; V.D.S., xxi 12; Yaj., i 70, 72; N.D.S., xii 91; Vedavyāsa S. (in Sm. Sam.), ii 49-50; Mbh., xii 165, 63.
6. V.D.S., xxi 10; Yaj., i 72.
7. Ap.D.S., i 28, 19; Kau., vol. ii, pp. 16-17.
8. G. S. Ghurye, *Caste, Class and Occupation*, pp. 49, 82-4.
9. G.D.S., xxiii 14; M., viii 371ff.
10. M., iii 12-19; ix 178, 154-5; G.D.S., xxviii 39; Yaj., i 56, 62; ii 128-32; J. D. Mayne, p. 176; cf. V.D.S., i 24-7: 'One Śūdra wife to all, according to some, without using mantras. Let him not act thus. For in consequence of such a marriage the degradation of the family certainly follows, and after death the loss of heaven.' Cf. also P.G.S., i, 4, 8-11; B.D.S., ii 2, 7.
11. M., ix 85-7; 123ff.; iii 43-4; G.D.S., xxviii 14-16; cf. B.D.S., ii 3, 12: 'If there is a son of equal caste and a son of a wife of the next lower caste, the son born of the wife of the next lower caste may take the share of the eldest, provided he be endowed with good qualities.'

12. Yaj., i 62; Vi.D.S., xxiv 5-8.

13. J. H. Hutton, *Caste in India*, pp. 150ff.

14. H. Risley, pp. 164ff.; cf. *Raja Ram Mohan Roy, his Works and Speeches* (Madras, 1928), pp. 4, 27; J. H. Hutton, p. 54; Neera Desai, p. 73; L. S. S. O'Malley, *Indian Caste Customs*, p. 10; S. R. Das, pp. 272, 273.

15. D. F. Pocock, *Ghurye Felicitation Volume*, p. 196.

16. Ibid., p. 198.

17. H. Risley, pp. 164, 70. Cf. *Raja Ram Mohan Roy, his Works and Speeches*, p. 28: 'Suicide is 10:1 in Bengal.'

18. W. Logan, vol. i, pp. 121ff.

19. In the Quran (iv 3) polygyny appears to be restricted more on economic than on ethical grounds: 'If you fear that ye will be unable to give the orphans what is theirs, marry so many wives as is good for you—two, three or four; and if you still fear that ye will be unable to act similarly, marry only one wife or take slaves: that is better, that ye be not inclined to evil.' Ameer Ali, p. 229; E. W. Lane, pp. 166-7: 'Polygamy . . . is more rare among the higher and middle classes than it is among the lower orders; and it is not very common among the latter. . . . Most persons of the middle and higher orders are deterred from doing so by the consideration of the expense and discomfort which they would incur. Not more than one husband among twenty has two wives.' Cromer writes that since Lane's time polygyny has certainly diminished (vol. ii, 158); *Enc. of Islam*, vol. iii, p. 846, iv 128; A. Shukri, p. 68: 'The Prophet is said to have declared, "The man who hath two wives, and who in partition inclines particularly to one of them, shall on the day of judgement incline to one side".'; R. Levy, pp. 100-10; M. M. Siddiqi, p. 147.

6. *Selection in Marriage*

1. G. S. Ghurye, *Caste, Class and Occupation*, pp. 4-5.

2. K. M. Kapadia, *Soc. Bul.*, vol. iii, no. i, pp. 73ff.; C. S. Patil, pp. 270ff.

3. G. S. Ghurye, *op. cit.*, pp. 202-4; I. P. Desai and Y. B. Damle, *Ghurye Felicitation Volume*, pp. 269ff.

4. K. M. Kapadia, *Soc. Bul.*, vol. iii, no. i, pp. 80ff.; C. S. Patil, pp. 252ff.; cf. G. S. Ghurye, *op. cit.*, pp. 205ff.

5. K. M. Kapadia, *Soc. Bul.*, vol. iii, no. ii, pp. 131ff.: 'The way caste is entrenched, the attitude towards co-education and mixing of boys and girls in educational institutions, especially when female education is on the increase at a tremendous pace, unpopularity of the mixed club and the apprehensions that it is a potential source of moral danger are sufficient indications that favourable climate for inter-caste marriage has still not been created.' (p. 136.) Cf. G. S. Ghurye, *op. cit.*, p. 204: 'The endogamous nature of caste has remained almost the same with this difference that whereas formerly marriage outside one's caste was not to be even thought of, today many educated young men and women are prepared to break through the bonds of caste if mutual love or attraction demand it.'

6. K. M. Kapadia, *Soc. Bul.*, vol. iii, no. ii, p. 140; I. P. Desai and Y. B. Damle, *Ghurye Felicitation Volume*, pp. 272-3.

7. S. V. Karandikar, p. 34.

8. Aufrecht, Ṛgveda, vol. ii, p. 672; S.B., i 8, 3, 6; *Vedic Index*, vol. i, p. 236; G. S. Ghurye, Some Kinship Usages in Indo-Aryan Literature, pp. 7, 39.

9. B.D.S., i 2, 8; G.D.S., xi 20; Ap.D.S., ii 14, 1; M., xi 171-2.

10. V.D.S., viii 2; G.D.S., iv 3-5; xxi 1.

11. G. S. Ghurye, *op. cit.*, pp. 8-9.

12. K. M. Kapadia, *Hindu Kinship*, pp. 70-2.

13 Ibid., pp. 280ff.

14. V.D.S., viii 1; G.D.S., iv 2; xxiii 12, 13; S. V. Karandikar, pp. 103ff.; B.D.S., ii 137-8.
15. K. M. Kapadia, *op. cit.*, pp. 59-60.
16. S. V. Karandikar, ch. iii.
17. K. M. Kapadia, *op. cit.*, pp. 81-2.
18. G. S. Ghurye, *op. cit.*, pp. 33-4, 39; *Anthropo-Sociological Papers*, pp. 19ff.; Kumārila, *Tantravārtikā*, p. 129; S. V. Karandikar, p. 20.
19. G. S. Ghurye, *op. cit.*, pp. 40-1, 37.
20. Ibid., pp. 35, 37-8; K. M. Kapadia, *op. cit.*, p. 64.
21. G. S. Ghurye, *op. cit.*, p. 38.
22. Ibid., pp. 40, 42.
23. W. H. R. Rivers, 'Marriage of Cousins in India', *J.R.A.S.*, 1907; G. S. Ghurye, 'Dual Organization in India', *Anthropo-Sociological Papers*, pp. 1-18; *Caste, Class and Occupation*, p. 128.
24. K. M. Kapadia, *The Matrilineal Social Organization of the Nagas of Assam*, section iii; M. N. Srinivas, vol. i, p. 81.
25. R. Levy, p. 72; *Enc. of Islam*, vol. iii, p. 865. S. H. Haidar, vol. i, pp. 349, 350, 107, 204, 202-3: 'The nature of endogamy among the four main classes of Sayyids, Sheikhs, Mughals and Pathans is determined more by the Muslim doctrine of *al Kafat*, by the preference of cousin marriage due to the lowest (?) of inheritance, by the social custom of limiting the marriage circle, than by the influence of the Hindu caste-system.' E. A. H. Blunt, pp. 177ff., 192.
26. M., iii 20ff.; B.D.S., i 20; G.D.S., iv 4ff.; V.D.S., i 29ff.; A.G.S., i 6.
27. M., iii 7-10; A.G.S., i 5.
28. G. S. Ghurye, 'Social Change in Maharashtra', *Soc. Bul.*, vol. i, pp. 83-6.

7. *Age at Marriage*

1. D.D.S., iv 1, 11-14; V.D.S., xvii 67-71; cf. G.D.S., xviii 20-3.
2. G.G.S., iii 4, 6; M.G.S., i 7, 8; H.G.S., i 19, 2; P. V. Kane, *History of Dharmaśāstras*, vol. ii, part i, p. 440, f.n. 1046; V.D.S., xvii 70.
3. Consummation after three nights is hinted at indirectly in other rules of the Gṛhyasūtras: 'The married pair should (after marriage) not partake of kṣāra and lavaṇa for three nights, should sleep on the ground, should not have intercourse for a year, twelve nights, six nights, or at least three nights.' P.G.S., i 8; cf. also A.G.S., i 8, 10; Ap.G.S., viii 8-9; S.G.S., i 17, 5; M.G.S., i 14, 14; K.G.S., xxx 1; Kh.G.S., i 4, 9; P. V. Kane, *op. cit.*, vol. ii, part i, p. 442.
4. V.D.S., xvii 67ff.; B.D.S., iv 1, 12-14; M., ix 89-90; Mbh., xii 44, 16; Vi.P., iii 10, 16; Vai.S., vi 12; L.G.S., xix 2.
5. K.S., iii 1, 2; H. C. Chakladar, p. 125.
6 K. M. Kapadia, *Hindu Kinship*, pp. 114ff.; Ap.D.S., ii 13, 8, 9; H. C. Chakladar, p. 116, f.n. 4; p. 117, f.n. 1.
7. G.D.S., viii 8, 14-21; M., ii 27-8, 66-7; v 52; Vai.S., v 9; R., v 19, 10; J. J. Meyer, vol. i, pp. 54, 155.
8. P.S., viii 6-9; cf. Saṁvarta S. (Sm. Sam.) 65-7; Bṛhad-Yama S. (Sm. Sam.), iii 19-22; Aṅgirā S. (Sm. Sam.), 126-8. According to Kāśyapa S. (Kane, *op. cit.*, vol. ii, part i, p. 445), a girl is *kanyakā* when she is ten and *kumārī* when she is twelve. Possibly in the Gupta Age, 'the education of a boy as a brahmachari started probably at the age of five or six and . . . the student continued to study in the house of the preceptor till he was 15 or 16 years old.' R. N. Saletore, p. 99. This lowering of the period of the *brahmacaryāśrama* would be a favourable condition for early marriage. According to Yuan Chwang, in the early seventh century marriage decided a person's prestige. 'When they marry they rise or fall in the position according

to their new relationship.' (Vol. I, p. 168; cf. also Beal, *Hiuen Tsiang*, vol. I, p. 82.)

9. P. V. Kane, *op. cit.*, vol. II, Part i, f.n. 1049.
10. R. C. Hazra, pp. 224-5.
11. G. S. Ghurye, *Indian Costume*, pp. 51-3; Vi.P., IV 24, 21.
12. G. S. Ghurye, ibid., p. 124.
13. G. S. Ghurye, *Caste, Class and Occupation*, pp. 99, 104-5, 137, 80. Vātsvāyana insisted on marriage within one's own caste. *Anuloma* marriage was for pleasure only. It was not considered to be worthy of the *élite*, although it was not prohibited. (H. C. Chakladar, p. 117.) Yuan Chwang writes that 'the members of a caste marry within the caste, the great and the obscure keeping apart from it.' Vol. I, p. 168; cf. also Beal, *Hiuen Tsiang*, vol. I, p. 82.
14. D. Gidumal, *Life and Life-work of B. M. Malabari*, pp. 5ff.; J. D. Mayne, pp. 301, 186.
15. R. P. Karkaria, pp. 125, 126; D. Gidumal, *Behramji M. Malabari*, p. 211.
16. H. Risley, pp. 200ff.; Neera Desai, p. 309.
17. The Age of Consent Committee Report, pp. 10ff., 123ff., 196.
18. In the amended Act (1938) a Magistrate of the first class is substituted for the District Magistrate.
19. B. L. Mankad, *J.U.B.*, 1934, Jan. (for sample I), pp. 281, 286; July 1935 (for sample II), pp. 104-6, 109, 110.
20. C. A. Hate, p. 29.
21. S. K. Kadri, p. 19.
22. S. S. Sarkar, *Man in India*, Jan. 1951, p. 6: Cal. Br., 12·70 ± 0·10; Cal. Vaidyas, 12·70 ± 0·08; Kayastha, 12·87 ± 0·08. According to Tulika Sen, 'The mean age for Brahmanas is 12·80 ± 0·10 yrs, that for the Vaidyas 12·70 ± 0·08 yrs and for the Kayasthas 12·87 ± 0·02 yrs; while the three castes combined yield an average of 12·78 ± 0·05 yrs, which is very much similar to the individual means given above. Compared with this, the average menarcheal age of the Nayars is 14·29 ± 0·19 yrs; while that of the Bagdis [an agricultural community in the village of Moydah, W. Bengal] is 13·25 ± 0·15 yrs.' *Man in India*, 1953, p. 36; Five-Year Report of the Family Training and Research Centre, Bombay (1957-62), pp. 207-8; K. A. Shah, The Age of Menarche in Gujarati College Girls, p. 348.
23. G. S. Ghurye, Sex-habits of a Sample of the Middle Class People of Bombay.
24. C. A. Hate, p. 282.
25. G. B. Desai, pp. 214, 216.
26. *Indian Census Report*, 1931, part I, pp. 195, 202, 158.
27. K. T. Merchant, pp. 100, 104.

8. Hindu Marriage a Sacrament

1. Vi.D.S., XXXV 14; M., V 157, 160-1; Yaj., I 75; Kau., vol. II, ch. ii, pp. 12ff.; P.S., III 30-3; Medhātithi on M., V 157; S. Rao, *Suttee*, pp. 227-33.
2. K. K. Datta, pp. 38-9. Forbes records how Madhava Rao's wife burnt herself with 'admirable dignity and fortitude' by setting fire to the sandal pile with her own hands. Malcolm, Craufurd and Holwell (who on 4 February 1743 witnessed *sati* by a girl of seventeen) mention that no efforts to dissuade the victim bore fruit and that friends and relations were obliged at last to assent.
3. E. Thompson, ch. vi.
4. K. K. Datta, pp. 37-8; Stavorinus also noted that it was prevalent among 'some castes'.
5. 'In 1803 William Carey, the missionary, took a census of *suttees* occurring within a circle extending 30 miles from Calcutta; the returns were necessarily inadequate, but came to four hundred and thirty-eight.' Ibid., p. 60.

6.

1815	*378*	1819	*650*	1823	*575*	1827	*517*
1816	*442*	1820	*598*	1824	*572*	1828	*463*
1817	*707*	1821	*653*	1825	*639*		
1818	*839*	1822	*583*	1826	*518*		
	2366		*2484*		*2304*		*980*

Total: *8134*

Average per year: *581*

As against this, in Central India during the first two decades of the nineteenth century 'there have not been . . . above three or four *suttees* annually'. Malcolm, ibid., pp. 69-72 ; S. Natarajan, p. 30 ; K. K. Datta, p. 38.

7. E. Thompson, p. 71 ; Vatsala Mehta, pp. 205-6 ; S. Rao, p. 230.

8. Raja Ram Mohan Roy quoted by Neera Desai, p. 65 ; S. Natarajan, p. 33.

9. E. Thompson, pp. 63-5.

10. From his minutes quoted by S. Natarajan, *op. cit.*, p. 33.

11. W. H. Sleeman, pp. 19ff. Cf. also the incident of *sati* witnessed by Sir Henry Lawrence in Nepal on 5 November 1845, quoted by E. Thompson, pp. 157-8 ; O'Malley, *India's Social Heritage*, pp. 172-3.

12. Mrs Hate's study revealed that 37·2 per cent of the 188 widows contacted by her had been seduced. In my inquiry five teachers have testified to this by saying that they would permit remarriage of widows who are harassed by their male relatives. C. A. Hate, p. 54, 149 ; *Soc. Bul.*, vol. III, no. 2, p. 146 ; cf. G. M. Tripathi, *Sarasvatichandra* (1917), Part II, ch. iv, p. 79.

13. Cf. Mrudula Shah, pp. 316-17.

14. K. M. Kapadia, *Soc. Bul.*, vol. VI, no. 1, pp. 43-4.

15. Vatsala Mehta, *op. cit.*, pp. 629-30, 638, 644, 627 ; cf. K. M. Kapadia, ibid., pp. 52-3 ; G. B. Desai, p. 37 ; C. A. Hate, p. 152.

16. 492 or nearly 96 per cent favour it and only 2 per cent are hostile. (*Soc. Bul.*, vol. III, no. 2, pp. 145ff.) Patil found a similar response from another stratum of the society, 90 per cent of his interviewees being in favour of it. He further found that on the opinion level there was not a marked difference between the two generations (85 per cent of the older and 92·3 per cent of the younger generation having voted favourably). C. S. Patil, pp. 168-9. The comparison between the data from the two levels further reveals that education in itself has not much influenced people's opinion in this matter. This is more clearly brought out in what follows. Mrs Hate's study of a rescue home in Bombay revealed that out of the 188 widows in the home some 115 had become widows at an average age of 20, their average age at marriage being 11·5 years. 16 per cent of the widows lost their husbands within a couple of months of marriage and 14 per cent enjoyed one year's married life. C. A. Hate, pp. 148-50.

17. 45 per cent of these would allow only those of 20 and under to remarry.

18. *Soc. Bul.*, vol. III, no. 2, pp. 145ff. ; cf. also vol. VI, no. 1, pp. 45ff.

19. K. M. Kapadia, *Soc. Bul.*, vol. VI, no. 1, pp. 43-4 ; N. J. Trivedi, pp. 76ff. ; *Jyotirdhar*, 4 August 1956 ; S. Natarajan, pp. 39, 42ff.

20. Ibid., p. 46 ; Vatsala Mehta, p. 327.

21. *Soc. Bul.*, vol. VI, no. 2, pp. 139ff.

22. In Kuppuswamy's survey only 15·57 per cent of the 1,227 Hindus assert that a man may marry again if his first wife is living. The percentage of males holding such an opinion should be slightly higher than this, because it is found that in the group of 1,303 persons, the percentage of men favouring bigamy is 18·39 against 11·69 of women favouring the second marriage of a man in the lifetime of his first wife. But what is striking is that 'the highest of the high, the Brahmin', who constitutes 49·2 per cent of the sample, are more against bigamy—only 12·91 per cent favouring

it—than the other Hindu castes. In fact, among the three major castes who constitute seven-eighths of the sample, the percentage of the partisans of bigamy is 14·75. Another fact is that 14·84 per cent of the ruralites against 16·33 per cent of the urbanites favour bigamy. In a word, the orthodox opinion is more inclined towards monogamy. This is further borne out when it is recalled that while 17·97 per cent of the students favour polygyny, only 14·20 per cent of the non-students, who include illiterates and semi-literates, favour it. And the percentage in the case of the students has been lowered by the weight of opinion of the females among them against bigamy. Another facet of the problem revealed by the survey is that the lower income groups do not appear to be so strongly against polygyny as those of the higher income groups. Education and economic considerations do not appear to outweigh the ideology in shaping contemporary attitudes. It would not be wrong to presume that the percentage of males holding this opinion is slightly higher. In the total survey, which includes 76 non-Hindus also (1303 persons in all), 18·39 per cent of men against 11·69 per cent of women hold this view. The proportion of women in the sample is 40 per cent. The opinion of women in this matter has lowered the over-all percentage in favour of bigamy on the part of man.

It would be difficult to pinpoint, on the background of such opinions, the role of urbanization, education, and economic consideration in shaping contemporary attitudes. Kuppuswamy, ch. 2.

23. M., ix 101-2.
24. Kau., vol. ii, ch. ii, pp. 12ff.; Medhātithi on M., ix 96.
25. G. S. Ghurye, *Indian Costume*, pp. 51-3; *Indian Sadhus*, pp. 53ff.
26. M., ix 76, 102, 46, 47.
27. Kau., vol. ii, ch. iii.
28. Y. B. Damle, 'Divorce in Poona District', partly published in *Society in India*, pp. 186ff.
29. C. A. Hate, pp. 90, 44-5, 47-9; cf. p. 41; Gunial Desai, pp. 62-4.
30. Those who favoured divorce in the surveys of Mrs Hate and Mrs Desai did so as they had to bear one or other of the following afflictions: maladjustment in marriage, supersession by the husband, bigamy, drunkenness, whimsicality, cruelty, immorality of the husband, or excessive sexual indulgence on the part of the husband, especially when the woman is physically incapable of conceiving.
31. Kuppuswamy, ch. iii.
32. K. M. Gandhi (pp. 93, 100, 101) who quotes Ellis and M. F. Nimkoff. Ellis writes: 'The tension between the parents absorbs energy which should be devoted to the children. The spectacle of the grievances or quarrels of their parents is demoralizing for the children and usually fatal to any respect towards them.' Cf. also E. W. Mowrer (p. 217): 'No child can develop normally in a family situation surcharged with tension between partners . . . minimal expressions, incipient coldness and reserve, belie all attempts to hide the strained relations and therefore react upon the child.'

9. *Marriage in Islam*

1. R. Smith, pp. 65ff.; Abdur Rahim, p. 7.
2. R. Levy, pp. 115-17; M. Gaudefroy-Demombynes, p. 133; A. Shukri, p. 52; *Enc. of Islam*, vol. iii, pp. 774-6; A. A. A. Fyzee, pp. 100-2, 9: 'In Lucknow and other places where there is a Shiite population, ladies of the better class do not contract *muta* marriages.' 'The Ithna Ashari allows such marriages today . . . all the other Shiites, notably the Ismailis and Zaydis, consider such marriages illicit.'
3. R. Smith, pp. 67-9.
4. R. Levy, p. 116.

5. R. Smith, p. 68.
6. R. Smith, pp. 92, 86, 87, 72-4; Abdur Rahim, p. 9; M. H. Zaidi, p. 21; S. Khuda Bukhsh, *Contributions to Islamic Civilization*, vol. I, p. 171; H. Schaeffer, p. 52; A. Shukri, p. 66; Th. W. Juynboll, p. 869; R. Levy, p. 104.
7. The view of al-Shafii is, 'With *lian* divorce of the pair and denial of the paternity of the child was *sunna* of the Prophet.' The Malikites also held that dissolution of marriage took place by *lian* itself. *Enc. of Islam*, vol. III, p. 25; Th. W. Juynboll, p. 869. The Malikite view is supported by a tradition of the Prophet, who is said to have ordered separation on accusation of adultery of his wife by a man from Ansar (A. A. A. Fyzee, p. 143). In India, a lawsuit is necessary for the dissolution of marriage under *lian*. R. Levy, pp. 119-20.
8. R. Levy, pp. 115, 123. The amount of *mahr* is considerably higher for a virgin than for a widow or a divorcee. M. Gaudefroy-Demombynes, pp. 132-3.
9. R. Levy, pp. 121ff.; Abdur Rahim, pp. 335-6; A. A. A. Fyzee, p. 128: 'The word *talaq* is usually rendered as "repudiation"; it comes from a root (*tallaqa*) which means "to release (an animal) from a tether"; whence, to repudiate the wife, or free her from the bondage of marriage. In law, it signifies the absolute power which the husband possesses of divorcing his wife at all times.' Cf. also p. 140; A. Shukri, pp. 88, 97, 115-16; *Quran*, II 228-30; 231 reads: 'If you give women the *talaq* and they reach their time, retain them with you kindly or let them go kindly; but do not keep them to harm them with hostile intent; he who does so only injures himself; make not a jest of Allah's words.' This is repeated in LXV 2.
10. Quran IV 23-4; A. Shukri, p. 69; cf. also pp. 93, 99; *Enc. of Islam*, vol. IV, pp. 637, 639; R. Roberts, p. 21; C. Colliver Rice, p. 98; C. L. Ostrorog, p. 81; E. W. Lane, p. 166: 'There are many men in this country, who in the course of ten years, have married as many as twenty, thirty, or more wives, and women not far advanced in age who have been wives to a dozen or more men successively. I have heard of men who have been in the habit of marrying a new wife almost every month. It is but just, however, to add that such conduct is generally regarded as very disgraceful; and that few parents in the middle or higher classes will give a daughter in marriage to a man who has divorced many wives. Cf. also p. 163. A. A. A. Fyzee (p. 131) believes that the Prophet mitigated the husband's oppression under Arabian divorce law by making it irrevocable with the third pronouncement, and quotes Tyabji to support him (p. 135).
11. Ameer Ali, pp. 244-5; R. Levy, vol. I, p. 170; A Shukri, p. 94. J. Schacht summarizes the teachings of the Fikh on the *talaq*: 'The husband has the right to pronounce the *talak* on his wife even without giving reasons, but his pronouncing it without good grounds is considered *makruh* (reprehensible) and by the Hanifs even as *haram* (forbidden). . . . The validity of the *talak* is not in any way affected thereby.' *Enc. of Islam*, vol. IV, p. 638.
12. A. A. A. Fyzee, p. 140: 'The word *khul* means literally "to take off clothes" and thence, "to lay down one's authority over a wife. . . . The wife begs to be released and the husband agrees for a certain consideration, which is usually a part or whole of the *mahr*".' Cf. also D. F. Mulla (p. 272): 'In law it is the laying down by a husband of his right and authority over his wife for an exchange.' According to Shukri (pp. 108-9), she returns the dower and even more, to relinquish his marital right in her in lieu of this consideration. Cf. also pp. 104-5, 108-9. The Prophet did attempt (IV 23, 24) to check the tendency of the husband to utilize divorce to gain some pecuniary advantage from the wife. Th. W. Juynboll (p. 868) holds that, in order to forbid the husband from compelling the wife to ransom herself by returning the *mahr*, which he often did, the Prophet enjoined: 'When you have

repudiated your wife and she has waited her time, keep her with you and treat her well, otherwise let her go free, but do not take her back with evil intent He who does that sins. Ye do not mock the words of Allah (Quran, II 231). Quran II 229: 'And it is not lawful for you that ye take from women aught (part) of that which you have given them; . . . And if he fears that they may not be able to keep the limits of Allah, it is no sin then for either of them if the woman ransoms herself'; IV 4: 'if they (wives) of their own accord remit unto you a part thereof (*mahr*), then you are welcome to absorb it'; and IV 24: 'And there is no sin for you in what ye do by mutual agreement after the duty hath been done (i.e. *mahr* paid)'; R. Levy, p. 123; M. Gaudefroy-Demombynes, p. 135; M. M. Siddiqi, p. 98; Quran II 229:

It is true that divorce in this case proceeds from aversion on the side of the wife, but it is effected only if the husband consents to it. Only the authority of the husband to revoke his repudiation found in *talaq* is absent in this form of ransoming, which substantiates our interpretation.

A. A. A. Fyzee (p. 139) believes that 'prior to Islam the wife had practically no right to ask for divorce; it was the Koranic legislation'. As the guardian of a woman received the *mahr* in pre-Islamic Arab society, he secured the divorce of his ward by repaying the *mahr*. It was only when the *mahr* became the property of the woman in Islam that divorce could be effected by the woman herself by the repayment of a part or whole of the dower.

A woman can also demand divorce if her husband is not in a position to provide her with maintenance, *nafaqah*—food, clothing, residence and service—according to her position (*Enc. of Islam,* vol. III, pp. 867, 914). According to the Hanafi Code, there is no provision to dissolve her marriage 'in case the husband neglects to maintain her, makes her life miserable by deserting or persistently maltreating her or certain other circumstances'. (A. A. A. Fyzee, pp. 145-6).

13. D. F. Mulla, p. 270.

14. When the amount of *mahr* is not stated explicitly, the amount paid (*mahr-al-mithl*) is suitable to her position, which depends on the social position, descent, age, intelligence, beauty and other qualities of the bride. 'In the United Provinces and Oudh, and also to some extent in Hyderabad, Deccan . . . the nobler the family, the higher the *mahr*, regardless of the husband's ability to pay or capacity to earn.' Though the Muslim jurists have recognized even 3 *dirhams* (about a rupee) as the proper dower, and in extreme cases the Prophet is said to have considered teaching of the Quran to the wife as an adequate dower, it is generally fixed with reference to the bride's social position, her 'age, beauty, fortune, understanding and virtue', and not to the social position of the husband and his means. Th. W. Juynboll, p. 866; A. A. A. Fyzee, pp. 113-14, 116-17.

15. Abdur Rahim, pp. 334-5; R. Levy, pp. 113-14; A. A. A. Fyzee, p. 111; M. Gaudefroy-Demombynes, p. 129. A. Shukri writes: 'A woman is legally bound to yield her person to her husband, in so far as this is required at reasonable times and places and with due regard to health and decency. If she denies herself to her husband without a valid cause, she becomes rebellious (*nashi Zah*) [a condition which exempts her husband from his obligation to lodge, clothe and maintain her]. She can refuse herself, however, till the advance dower has been paid.' Similarly, 'When the wife is too young for matrimonial intercourse, she has no right to maintenance from her husband.' If however the inability for coitus proceeds from the husband being an infant, impotent or otherwise, the adult wife is entitled to it. 'The right of maintenance is the consequence of submission.' Mahmud Essak interprets *nikah* to imply 'ownership of the right of enjoyment of the woman; not ownership of the person of the wife, or of anything not connected with the marital rights of the husband.' (A. Shukri, pp. 70-1, 82, 21.)

The author of the *Hedaya* writes: 'The payment of dower is enjoined by the law merely as a token of respect for its object (the woman), wherefore the mention of it is not absolutely essential to the validity of a marriage; and, for the same reason, a marriage is also valid, although the man were to engage in the contract on the special condition that there should be no dower.' The jurists, however, read in the dower, either explicitly or by way of analogy, the idea of purchase. O. Spies writes: '[some jurists] regard it practically as purchase-money (e.g. Khalil: "the *mahr* is like the purchase-money") or as an equivalent (*iwad*) for the possession of the woman and the right over her, so that it is like the price paid in a contract of sale, while other jurists see in the *mahr* a symbol, a mark of honour or a proper legal security of property for the woman.' (*Enc. of Islam*, vol. III, p. 137.) According to the Hanafites, a contract of marriage may be made in the form of a sale; the woman saying, 'I have sold myself to thee for so much as dower,' and the man saying, 'I accept.' A valid marriage is also made if a word implying gift be used. The Shafiites, on the other hand, hold that, since marriage is a contract which has been legalized for special reasons, the words *tazavij* or *nikah*, which definitely and exclusively imply matrimony, can alone constitute such a relation. The Malikites take the middle position. Again, 'Shafii maintains that the dower is not due unless the marriage is consummated, and that a valid retirement entitles the women merely to a moiety of the dower; but the Hanafite jurists answer that "the woman has completed her part of the contract, by delivering her person and by removing all obstructions, which is the extent of her ability; her right to recompense is, therefore, established and confirmed in the same manner as in a case of sale, where, if the seller has offered the delivery of the goods sold and there is nothing to obstruct possession on the part of the purchaser and the latter neglects to take possession, he is considered as having taken possession, and the thing purchased is afterwards held as a trust in the hands of the seller and the payment of the full price is obligatory upon the purchaser".' (A. Shukri, pp. 44, 62-3). Fyzee (p. 112) writes: 'If the authors of the Arabic textbooks on Muhammadan law have compared it to price in the law of sale, it is simply because marriage is regarded as a civil contract in that system.'

'According to Kazi Khan a husband is entitled to inflict corporal chastisement on his wife for four reasons: "First, if the wife gives up beautifying or adorning herself . . . when the husband desires her to beautify herself. Second, if she refuses compliance with his wishes, when he is inclined to have intercourse with her, she being pure . . . Fourth, if the wife goes out of his house without his permission, after she has received her advance dower in full."' The wife may not refuse to live with her husband on the ground that he maltreats her. The husband 'has the right to forbid her to leave his house without his permission, except in the cases in which she is allowed to do so . . . he may also forbid her, even when accompanied by her relative, to visit and mix with "foreign women" or to attend festivals or entertainment, especially "on the occasion of misfortune to others".' (A. Shukri, pp. 89, 83, 90).

'The bridegroom has to pay half the dowry to the bride as damages if he breaks the marriage contract by afterwards refusing to take her as his wife.' Similarly, if a man divorces his wife before consummation he must leave half the *mahr* with her. Th. W. Juynboll, p. 866; *Enc. of Islam*, vol. III, p. 137; vol. IV, p. 639; Quran II 237-8; A. A. A. Fyzee (p. 10): 'Unchastity on the part of the wife was also a reason for debarring her claim for dower.'

16. The Shafiites state: 'Only her *wali* has the right to marry her to anyone; but he is at the same time generally bound to give his co-operation if she desires it of him.' It is commendable (*sunnah*) that the *wali mujbir* also should ask permission of the bride before giving her in marriage. According to the Malikites, the woman 'who [though of age] belongs to a distinguished family, or, in consequence of her beauty or other qualities, is an exceptionally desirable match, is united in marriage only through her *wali*'. Any woman

of full age can be compelled by her father to marry, without any consideration of her consent, so long as she is a virgin. Th. W. Juynboll, pp. 864-5; R. Levy, pp. 110-11; M. R. Baveja, p. 56.

According to Abu Hanifa, 'The puberty of a boy is established by the symptoms of puberty. If no such symptoms exist, then when a boy completes his eighteenth year . . . (a girl) attains puberty when she completes her seventeenth year. It is, however, given us as an authoritative decision, according to the opinion of Abu Yusuf, that fifteen years is the age of puberty in the male and female. The reason for this is the shortness of human life in our times.' Relying on a passage in *Hedaya*, 'the earliest period of puberty with respect to a boy is 12 years and with respect to a girl 9 years', the Judicial Committee observed in a case referred to it that 'the age of puberty of a girl in Muhammadan law is 9 years'. A. Shukri, p. 47; A. A. A. Fyzee, p. 78; D. F. Mulla, pp. 230-1.

17. Quran, IV 6; R. Levy, pp. 107-8.

18. A. A. A. Fyzee, pp. 78-9; M. Gaudefroy-Demombynes, p. 129; *Enc. of Islam*, vol. III, p. 913; Th. W. Juynboll, pp. 864, 868; A. Shukri, p. 47; E. W. Lane, p. 143. D. F. Mulla, pp. 242-3.

19. Quran, II 220-1; V 7; A. Shukri, pp. 47, 35; R. Levy, pp. 102-3.

20. C. Colliver Rice, p. 101; R. Levy, pp. 126, 128, 129, 131, 132; M. M. Siddiqi, pp. 14, 142; Quran, III 193, IV 38, 123, IX 78, XXXIII 35; XLVIII 5, LVII 12, 17.

21. R. Levy, pp. 124ff.; M. M. Siddiqi, pp. 115, 141; R. Roberts, p. 18; Ameer Ali, p. 251; D. B. Macdonald, *The Development of Muslim Theology, Jurisprudence and Constitutional Theory*, p. 10; *Aspects of Islam*, p. 104; 'The veil would never have existed except for the insane jealousy of Muhammad.'

22. R. Smith, pp. 79, 102; R. Levy, pp. 91-2, 94; Quran, VI 141, 152; XVII 33; LXXXI 8.

23. Quran, IV 3, 8, 12-14; R. Levy, pp. 95ff.; M. Gaudefroy-Demombynes, pp. 132, 139ff.; A. Shukri, pp. 64, 86-7.

24. Quran, II 182; IV 38; V 97; LX 10; C. Colliver Rice, pp. 98-9; M. Gaudefroy-Demombynes, p. 132; R. Levy, pp. 103, 112; A. Shukri, pp. 48, 87; M. R. Baveja, p. 66.

25. C. Colliver Rice, pp. 99-100.

26. W. C. Smith, pp. 136, 140; H. A. R. Gibb, p. 99.

10. *The Hindu Joint-Family*

1. K. M. Kapadia, *Hindu Kinship*, pp. 83-6.

2. Ibid., pp. 203-6; Radhabinod Pal, pp. 226ff.

3. Ap.D.S., II 14, 6-10; 14, 1; G.D.S., XXVIII 1-4; XV 19; B.D.S., II 3, 2-8; V.D.S., XVII 40-3.

4. K. M. Kapadia, *Hindu Kinship*, pp. 208ff.; Yaj., II 116, 118, 122; N.D.S., XIII 2, 4, 13, 15, 21-2, 5.

5. N.D.S., III 2, 32, 36, 38-40, 44.

6. Ganganath Jha, *Manu Smriti*, vol. III, p. 726; Kau., vol. II, p. 34: Kāt., 843.

7. S.G.S., I 1, 4, 5; P.G.S., I 2, 1, 2.

8. M., VIII 201; IX 206-8; G.D.S., XXVIII 30; Yaj., II 119, N.D.S., XIII 10, 11; Sukra, IV 5, 579; Ganganath Jha, *op. cit.*, vol. III, pp. 768-9; Kāt., 869, 867, 874.

9. M., IX 192-6; G.D.S., XXVIII 23; Yaj., II 143; Vi.D.S., XVII 18; Kau., vol. II, p. 15; Ganganath Jha, *op. cit.*, vol. III, pp. 762-3; Kāt., 906, 901.

10. P.G.S., III 10; A.G.S., IV 4, 18ff.; S.G.S., IV 7; G.D.S., XIV 1, 13, 20; Ap.D.S., II 15, 2-4; B.D.S., I 11; V.D.S., IV 9ff.; M., V 59ff.; Yaj., III 1-4, 18; K. M. Kapadia, *Hindu Kinship*, pp. 25-9.

11. K. M. Kapadia, *Hindu Kinship*, pp. 129-31 ; Kau., ii 20 ; vol. i, p. 114 ; Mbh., vi 46, 2 ; ix 4, 9 ; 9, 46 ; G. S. Ghurye, Some Kinship Usages in Indo-Aryan Literature, pp. 25-9, 6, 12-16, 14 ; J. J. Meyer, p. 564 ; A.B., iii 3, 13.
12. K. M. Kapadia, *op. cit.*, pp. 300-2, 121 ; G. S. Ghurye, *op. cit.*, pp. 19ff.
13. K. M. Kapadia, *op. cit.*, pp. 119-21.
14. G. S. Ghurye, *op. cit.*, pp. 16-17.
15. Nir., iii 4, 2, 6 ; Ap.D.S., ii 14, 2 ; M., ix 127, 130-1, 133-9 ; Yaj., ii 135 ; Kau., vol. ii, pp. 32, 34 ; N.D.S., xiii 49-51 ; Br.S., xxv 35 ; K. M. Kapadia, *Hindu Kinship*, pp. 25, 196ff., 215ff.
16. K. M. Kapadia, ibid., pp. 187ff. ; Br.S., xxv 50, 53, 54 ; Kāt., 924, 922.
17. Ibid., pp. 217-18, 200-1, 192.
18. Ibid., pp. 280ff.
19. Ibid., pp. 174-82.
20. Ibid., pp. 165ff.
21. Ibid., pp. 283, 284, 224.
22. Ibid., pp. 216.
23. P. R. Sundara Aiyar, pp. 210, 219 ; M. P. Joseph, pp. 400-1, 411-13 ; K. P. Subramania Sastri, p. 209 ; S. V. Gupte, p. 966 ; J. D. Mayne, pp. 91-2.
24. M. S. A. Rao, *Social Change in Malabar*, pp. 106-7, 137ff.

11. The Status of Woman

1. B. S. Upadhya, pp. 130ff., 102.
2. Indra, p. 148 ; T.S., vi 1, 8, 5 ; S.B., v 2, 1, 10 ; viii 7, 2, 3 ; A.A., i 2, 5 ; M., ix 45.
3. T.B., iii 7, 1 ; A.B., vii 10 ; G.B., ii 23, 4 ; Panini, iv 1, 33 ; Indra, pp. 154, 149 ; R. M. Das, p. 172.
4. G.G.S., i 4, 16, 9 ; A.G.S., i 8, 5-6 ; V. M. Apte, pp. 40, 29 ; Ap.D.S., ii 6, 13, 17, 19 ; ii 5, 11, 13 ; M., ix 96.
5. V. M. Apte, pp. 43-4 ; M., ix 18 ; ii 66 ; iii 121 ; iv 205 ; Yaj., i 88 ; G.D.S., xviii 1 ; M., xi 36-7 ; v 155 ; cf. Mbh., xiii 40, 11.
6. R.V., iii 55, 16 ; V.S., viii 1 ; B. S. Upadhya, pp. 174-5 ; Indra, pp. 159ff. ; Ap.D.S., ii 11, 29, 12 ; R., ii 20, 75 ; Kishkindha 16, 12 ; Mbh., xiii 321, 83 ; iii 27.
7. Indra, p. 161 ; V. M. Apte, p. 36 ; Bhag., ix 32-3 ; cf. also B.D.S., ii 1, 11-12 ; M., v 139 ; Yaj., i 21, pp. 32-3.
8. M., v 154-5, 151, 156 ; cf. also ix 95 ; cf. R., ii 117, 222-8 : 'Women who love their husbands whether he treats them well or ill . . . attain high status. The husband, even when he is wicked or lustful, is the highest god to the virtuous wife.' The position Draupadī secured *vis-à-vis* her husbands was due, as she explained to Satyabhāmā, to the fact that she was always engaged in assisting them, was all the time at their beck and call and served them with all humility. Mbh., iv 232, 24ff. In the writings of the commentators the word *dharma* is narrowed down to the service of the husband. Cf. Kullūka and Govinda on M., ix 11, 28 ; R. M. Das, pp. 173-4 ; Mbh., xiii 40, 11-12 ; xvi 23 ; cf. Yaj., i 87 ; Kullūka on M., v 153 ; R. M. Das, p. 172.
9. M., ix 5, 6, 75 ; Yaj., i 84.
10. M., v 147 ; ix 11.
11. M., ix 14ff. ; ii 213-14 ; v 184-9 ; Mbh., i 172, 12 ; iv 39, 78 ; v 37, 1-6 ; xi 20, 7 ; xii 167, 38 ; xiii 40, 4, 13ff., 43, 19 ; 46, 8 ; 73, 8 ; R., iv 1, 85 ; P. P. Sṛṣṭikhaṇḍa, ii 20 ; A. S. Altekar, pp. 385-6, 133, 229, 375, 379 ; J. J. Meyer, pp. 497ff.
12. A. S. Altekar, p. 387. Even in the Mahābhārata itself Yudhiṣṭhira is said to have been perturbed at this cynicism and questioned Bhīṣma : If the women were wicked and vicious by their very nature how could the Dharma

writers enjoin that they should participate with their husbands in religious duties?

13. Mbh., xiii 46, 7; cf. J. J. Meyer, vol. ii, p. 495.
14. Bṛhad saṁhitā, iv 76 in A. S. Altekar, p. 387.
15. Neera Desai, pp. 40ff.
16. M. R. Paranjpe, *A Source Book of Modern Indian Education*, pp. 10-11.
17. Neera Desai, pp. 205-6.
18. N. J. Trivedi, p. 83.
19. Neera Desai, p. 90.
20. Cf. also J. Kellock, p. 94; Neera Desai, p. 80: 'The change which we should all seek is thus a change from constraint to freedom, from credulity to faith, from unorganized to organized life, from bigotry to toleration, from blind fatalism to a sense of human destiny. This is what I understand by social revolution both for individuals and societies in this country.'
21. J. Kellock, p. 91.
22. Neera Desai, pp. 149ff.
23. K. M. Kapadia, *Hindu Kinship*, pp. 187ff., 167ff.
24. S. V. Gupte, p. 515.
25. UNESCO, *Women and Education*, pp. 114, 177; *Education in India* (Ministry of Education, Government of India), (1952-3), pp. 110-11, 269; (1959-60), pp. 21, 124; *Census of India*, paper no. 5, 1954, pp. 270, 278, 282; Tara Patel, *Bhāratīya Samājavyavasthā*, pp. 281ff.
26. UNESCO, *Women and Education*, p. 176. The percentage of literacy among men was 24·9. The percentage of literacy in general had increased from 8·2 in 1921 (and 8·3 in 1931) to 16·6 in 1951. *Census of India*, paper no. 5, 1954, p. 1; *Education in India* (1959-60), p. 21.
27. Neera Desai, p. 86.
28. C. A. Hate, in her survey of 152 women, found that 78 per cent of them were engaged as teachers. But the census record in 1951 brings out the wide variety of jobs which women have taken up. (Neera Desai, pp. 230-1.)
29. Neera Desai, p. 236; Rajnikant Das quoted on p. 237.
30. Neera Desai, pp. 283-4.
31. Appadorai, pp. 74ff., 78.
32. Neera Desai, p. 285.
33. M. S. Gore, 'The Husband-Wife and Mother-Son Relations', *Soc. Bul.* ('Nature and Extent of Social Change in India'), vol. xi.
34. Ibid., pp. 94, 96-7.
35. Ibid., pp. 98, 101.
36. Article 16(2).
37. Lakshmi Menon, 'Political Rights of Women in India', in *Status of Women in S. Asia*, pp. 93ff., 96, 102; *Constitution of India*, Article 16.
38. Jyotsna H. Shah, 'Causes and Prevention of Suicides', *Indian Journal of Social Work*, vol. xxi, Sept. 1960.
39. Ibid., pp. 172-3, 170.

12. The Family in an Urban Setting

1. D. R. Gadgil, p. 4.
2. G. S. Ghurye. *Caste and Class in India*, pp. 184-5, 195-6, 5.
3. J. V. Morley quoted by G. S. Ghurye, *Culture and Society*, p. 70.
4. H. J. Laski, pp. 14, 16, 28.
5. L. T. Hobhouse, *Liberalism*, ch. ii.
6. P. B. Gajendragadkar, pp. 11-12.
7. *Census of India*, 1951, vol. i, pt. IA—Report, p. 152; *Census of India*, 1961, Paper I of 1962, pp. 8-3, 324-5; xxxvi.
8. I. P. Desai, 'The Joint-Family: an Analysis', *Soc. Bul.*, vol. iv, no. 2, pp. 99-102.

9. K. T. Merchant, pp. 128ff.
10. Ibid., p. 263.
11. Ibid., p. 127.
12.

Joint with	*For*	*Against*	*Mixed*	*Blank*	*Total*
Brother	74	54	29	8	165
Uncle	38	40	12	3	93
Rest	6	11	—	2	19
TOTAL	118	105	41	13	277

13. *Soc. Bul.*, vol. IV, no. 2, pp. 161-3.
14. *Poona: A Re-Survey*, pp. 95ff., table 1·25.
15. I. P. Desai, *Soc. Bul.*, vol. V, no. 2, pp. 148ff.
16. K. M. Kapadia, 'Rural Family Patterns', *Soc. Bul.*, vol. V, no. 2, pp. 113ff.
17. Ramnik Chudasama, pp. 19, 44, 34, 29, 39ff., 48ff., 54, 56.
18. B. V. Shah, *Social Change and College Students of Gujarat*, pp. 38, 43, 45, 46, 84ff., 95, 97, 54, 56, 57; 'Youths and Joint Family' (Paper read at the Indian Science Congress, 50th Session, Delhi, Oct. 1963); cf. also *Soc. Bul.*, vol. XI.
19. B. V. Shah, 'Gujarati College Students and Selection of Bride', pp. 131ff.
20. Vimal P. Shah, *Attitudes of Postgraduate Students to Marriage and Family*, pp. 13-14.
21. D. T. Lakdawala, pp. 135ff., particularly tables III (28) (29) (30).
22. Edwin D. Driver, 'Family Structure and Socio-Economic Status in Central India', in *Soc. Bul.*, vol. XI.
23. Ibid., p. 119, tables 8 and 9.
24. Ibid., p. 118, table 6.
25. Sunil Sengupta, 'Family Organization in the Rural West Bengal', *Economic Weekly*, pp. 384-5.
26. I. P. Desai, *Soc. Bul.*, vol. IV, no. 2, pp. 102, 101.
27. K. M. Kapadia, *Soc. Bul.*, vol. V, no. 2, pp. 117ff.; D. T. Lakdawala, p. 121.
28. K. M. Kapadia, ibid.
29. R. Chudasama, pp. 38, 20-1.
30. Edwin Driver, p. 115.
31. *Soc. Bul.*, vol. V, no. 2, pp. 120ff.

13. Recent and Contemporary Trends

1. Similar legislation was enacted in Saurashtra (1948), Madhya Bharat (1951), Travancore-Cochin (1952) and Rajasthan (1953).
2. The Act prohibits the employment of women workers in mines during four weeks following the day of delivery of a child and provides for payment of maternity benefit at the rate of one-half rupee per day for a period up to four weeks of absence before and four weeks after delivery. It provides for a period of one month of authorized absence or leave before confinement. The Act provides for a bonus in addition to maternity benefit if the woman has been attended by a qualified midwife at the time of delivery.
3. Medical assistance includes outdoor medical treatment and home visits, specialist care in medicine, surgery, gynaecology and midwifery, hospital treatment particularly for T.B., and radiological and pathological examinations.
4. The cash benefits paid for the years 1953-8 amount to 50 million rupees (M. A. Chansarkar, p. 105). The disconcerting fact about this benefit is that 'both in the Engineering and Cotton Mill Industries in Bombay, absenteeism is on the increase. Similar is the case of Woollen, Cotton Mill and Leather Industries in Kanpur.' (Ibid., pp. 112ff.)
5. Under Maternity Benefit Acts in the majority of States, the benefit was at the rate of a full average daily wage. This Act has reduced it to half the assumed average daily wage. As the women insured cannot claim the

benefit under the Acts of the States, there is a growing discontent against this provision of the comprehensive scheme. (M. A. Chansarkar, p. 124, f.n. 8.)

6. Part IV, Article 41.

7. In 1958 the total number of workers insurable under the scheme was 2,200,000. (M. A. Chansarkar, pp. 35-6.)

8. Family is defined as 'the spouse and minor legitimate and adopted children dependent upon the insured person and where the insured person is a male, his dependent parents' [Section 2(11) of the E.S.I. Act].

9. *The Third Plan Mid-term Appraisal*, p. 56; *Times of India*, 9 October 1963, 28 March 1964.

10. M. A. Chansarkar, pp. 184-5.

11. The Central Government is, however, empowered to apply the provisions of the Act to factories in any of these industries employing less than 50 persons and even to factories in any other industry.

12. 'The employers' contribution to the Fund has been fixed at 6¼ per cent of the basic wages and dearness allowance, including the cash value of food concession payable to the employees. The employees are required to contribute the same amount' but under the amended Act 1953 they may, if they so desire, raise their contribution up to 8⅓ per cent of their basic wages and dearness allowance. The rate of interest on these contributions was 3 per cent and was raised to 3½ per cent in 1955.

13. *Times of India*, 29 May 1964, 21 August 1964.

14. A. N. Agarwala, *Insurance in India*, pp. 72, 78, 85: 'As compared to 1928, the number of new policies issued in 1938 went up by 233%, the insured amount by 121% and the total life insurance business in force by 187%. The initial years of the War saw decline in the progress of insurance which again turned a new leaf in 1944, with 4,32,000 policies for the year insured for Rs 95·20 lacs.'

15. Ibid., pp. 40, 50, 59, 69, 77, 85, 96, 110.

16. Ibid., pp. 124, 126.

17. Ibid., pp. 128-9, 130-1.

18. *India 1963*, pp. 197-8; Life Insurance Corporation of India Annual Report (1962-3), pp. 4, 19.

19. K. M. Kapadia, *Soc. Bul.*, vol. IV, no. 2, p. 167.

20. Ibid., p. 9.

21. K. M. Kapadia, 'Caste in Transition', in *Soc. Bul.*, vol. XI.

22. K. M. Kapadia, *Soc. Bul.*, vol. IV, no. 2, pp. 173ff.

23. 1,233 students with an average age of 17·2 ± 1·6 of the Matric and pre-Matric classes (standards X and XI) from 12 schools in Navsari and Gandevi talukas of Surat district were contacted for this inquiry.

24. K. M. Kapadia, 'The Family in Transition', *Soc. Bul.*, vol. VIII, no. 2, pp. 82ff. This work involves, besides petty purchases from the market for the home, attending the shop to relieve the guardian to go home, helping him in his work, and helping the mother in the home. For girl students particularly it would include help in kitchen work, in cleaning the house, in washing clothes, in keeping babies quiet—fulfilling a variety of expectations by the mother.

25. B. G. Desai, *Social Background of High School Students in Baroda District*, ch. IV; A. S. Patel, *Social Background of High School Students in Kheda District*, ch. V; I. P. Desai, *High School Students in Poona*, pp. 56, 74ff.

26. When the students were questioned by B. G. Desai about the consequences of not participating in this work, only 11·58 per cent of them reported punishment or scolding. As against this 17·81 per cent referred to additional strains on the parents and 5·79 per cent to quarrels in the family; 15·23 per cent spoke of disturbance in the order of the home and 7·08 of economic loss.

27. Cf. I. P. Desai: 'To the extent that the practice of being present at meal times, their participation in the family life by doing some work and their attitude towards the supervision of their conduct are indications of

family unity, it cannot be said that the family institution is breaking or is likely to break.'

28. J. M. Sarma, pp. 53-5.

29. *Soc. Bul.*, vol. VIII, no. 2, pp. 85ff., 92.

30. Seven-eighths of the students (88·68 per cent) in B. G. Desai's inquiry said their relations with their guardians were 'loving' and 6·64 per cent, 'of equality'. Patel adds: 'This indicates that the family homogeneity and the family relationship is in the direction of peace and solidarity.'

31. K. M. Kapadia, *op. cit.*, pp. 90ff.

32. I. P. Desai, pp. 123, 78-9; K. M. Kapadia, *Soc. Bul.*, vol. VIII, no. 2, p. 91.

33. The percentage is 51·53 in B. G. Desai's inquiry and 22·72 per cent in Patel's inquiry. As Desai's analysis shows, the percentage is 62·10 in the case of those whose parents are illiterate and 50·33 in those cases where they have received primary education. It is, on the other hand, very low when the guardian is a graduate.

34. The percentage of such students is 26·7 in Patel's inquiry.

35. *Soc. Bul.*, vol. VIII, no. 2, p. 92.

36. K. M. Kapadia, *Soc. Bul.*, vol. IV, no. 1, pp. 173, 177-8.

37. K. M. Kapadia, *Soc. Bul.*, vol. VIII, no. 2, p. 94.

38. K. T. Merchant, pp. 123ff.

39. N. C. Desai, p. 39.

40. B. R. Agarwala, 'Caste and Joint Family in a Mobile Commercial Community'; *Soc. Bul.*, vol. IV, no. 2, pp. 138-45. Cf. also another paper of his, *Soc. Bul.*, vol. XI, pp. 144ff.: 'The psychological attitudes towards joint-family have not yet changed. Though due to business, service and other occupations and lack of accommodation in big cities, separate households, i.e. separate residential units are formed, most of the people of this community prefer to live in a joint-family and as soon as the opportunity occurs they try to unite. Attempts are made for all the brothers or members of the family to get their jobs and start their business or carry on their profession as far as possible in the same city. If residence is not available or not possible under the same roof they see that they get it near by so that the advantages of joint-family may be enjoyed.'

41. M. S. A. Rao, *Social Change in Malabar*, pp. 137ff.

42. See chapter 14.

14. The Matrilineal Family

1. K. Parameswaran Pillai, pp. 22-3.

2. Ibid., p. 27.

3. Ibid., pp. 25-8.

4. J. D. Mayne, pp. 969, 976ff.

5. P. R. T. Gurdon, pp. 76ff.; K. P. Chattopadhyay, *Khasi Kinship and Social Organization*, pp. 11, 19ff.; J. P. Mills in *Essays in Anthropology presented to S. C. Roy*, p. 3.

6. A. Playfair, pp. 71-3, 68-9; J. K. Bose, *The Garo Law of Inheritance*, ch. ii, 86ff.

7. J. K. Bose, ibid., pp. 87-96.

8. J. D. Mayne quoted by K. Parameswaran Pillai, pp. 18, 19; J. Puthenkalam, *Marriage and Family in Kerala* (unpublished thesis for the Ph.D. degree in Sociology, Bombay University), ch. VII; M. S. A. Rao, *Social Change in Malabar*, p. 132.

9. M. S. A. Rao, ibid., p. 133.

10. M. S. A. Rao, *Changing Pattern of Culture*, pp. 418-19.

11. J. Puthenkalam, *op. cit.*, ch. vii, pp. 209-10; M. S. A. Rao, *Changing Pattern of Culture*, p. 422; *Social Change in Malabar*, pp. 132, 134.

12. In the Amended Act of 1925, the husband is recognized as a co-sharer with the grandmother's *tavazhi*, and in the absence of the latter he is entitled to the whole of the self-acquired or separate property of his wife. 'The property obtained from the husband or father . . . by gift or inheritance, shall . . . belong to the wife or widow and each of the children in equal shares with right to individual partition.' The right of partition was recognized by the Act in Makkathayam property.

13. Nair Regulation of 1912, Sections 12, 14, 15, 17; Nair Regulation of 1925, Sections 33, 34; cf. M. P. Joseph, p. 585, for limitations provided in the Regulation and their implications; J. Puthenkalam, *op. cit.*, p. 208; M. S. A. Rao, *Social Change in Malabar*, p. 134; cf. K. Raman Unni, p. 41: The last two or three decades were a period of an increasing number of partitions ('partition fever' as some villagers called it).

14. M. S. A. Rao, *Changing Pattern of Culture*, p. 426. *Social Change in Malabar*, pp. 134-5.

15. Ibid., p. 425; V. S. D'Souza, 'Mother-Right in Transition' *Soc. Bul.*, vol. II, no. 2, pp. 139ff.

16. J. Puthenkalam, *op. cit.*, p. 220.

17. 'Visiting Husbands in Malabar', *J. of M. S. Univ. of Baroda*, 1956, pp. 45ff.

18. K. Raman Unni, p. 55; cf. also E. K. Gough, pp. 82-3, 86. 'The Nayar terms reflect a matrilineal descent system which has recently drifted towards bilaterality.' (M. S. A. Rao, *Soc. Bul.*, vol. II, no. 2, p. 130.)

19. M. S. A. Rao, *Changing Pattern of Culture*, pp. 396ff.; *Soc. Bul.*, vol. II, no. 2, pp. 130-1.

20. M. S. A. Rao, ibid., pp. 402-3.

21. J. Puthenkalam, *op. cit.*, ch. VII, p. 219.

22. M. S. A. Rao, *Social Change in Malabar*, p. 131; K. Raman Unni, p. 133; E. K. Gough, p. 86; cf. also 'The change from a matrilineal to a bilateral kinship system, the emergence of the elementary family at the expense of the unilineal group, and the decrease in range and functions of the kinship system appear therefore as part of the overall change from a feudal to a semi-industrial economic and social system.' (E. K. Gough, p. 87.)

23. M. S. A. Rao, *Soc. Bul.*, vol. II, no. 2, p. 204.

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